

# ***Table of Contents***

---

## **16.03.12 - Rules Governing Long Term Care Provider Remedies in Idaho**

|                                       |    |
|---------------------------------------|----|
| 000. Legal Authority. ....            | 2  |
| 001. Title And Scope. ....            | 2  |
| 002. (Reserved). ....                 | 2  |
| 003. Definitions. ....                | 2  |
| 004. Remedies. ....                   | 3  |
| 005. -- 009. (Reserved). ....         | 4  |
| 010. Imposition Of Remedies. ....     | 4  |
| 011. Conflict Of Remedies. ....       | 5  |
| 012. Civil Monetary Penalties. ....   | 5  |
| 013. -- 016. (Reserved). ....         | 7  |
| 017. Temporary Management. ....       | 7  |
| 018. Monitoring. ....                 | 9  |
| 019. -- 023. (Reserved). ....         | 9  |
| 024. Notice. ....                     | 9  |
| 025. -- 995. (Reserved). ....         | 10 |
| 996. Administrative Provisions. ....  | 10 |
| 997. Confidentiality Of Records. .... | 10 |
| 998. Inclusive Gender. ....           | 10 |
| 999. Severability. ....               | 10 |

**IDAPA 16  
TITLE 03  
CHAPTER 12**

**16.03.12 - RULES GOVERNING LONG TERM CARE PROVIDER REMEDIES IN IDAHO**

**000. LEGAL AUTHORITY.**

Pursuant to Section 56-202(b), Idaho Code, the Idaho Legislature has delegated to the Department of Health and Welfare the responsibility to establish and enforce such rules as may be necessary or proper to administer public assistance programs within the state of Idaho. Section 1919(h) of the Social Security Act requires the state of Idaho to establish remedies for long term care facilities that do not meet the requirements for participation in the Medicaid program. (6-8-90)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are to be known and cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.12, "Rules Governing Long Term Care Provider Remedies in Idaho". (6-8-90)

**02. Scope.** Pursuant to Section 1919(h) of the Social Security Act, these rules will provide for remedies for long term care facilities certified to participate in the Idaho Medicaid program who do not meet the requirements for participation. (6-8-90)

**002. (RESERVED).**

**003. DEFINITIONS.**

**01. Complaint Investigation.** A survey or visit to determine the validity of allegations of resident abuse, neglect or misappropriation of resident property, or of other noncompliance with applicable federal and state requirements. (6-8-90)

**02. Deficiency.** A failure of compliance with a program requirement. The fact that a deficiency no longer exists at the time of the survey or complaint investigation which identified it shall not negate its status as a deficiency. (6-8-90)

**03. Department.** The Idaho Department of Health and Welfare. (6-8-90)

**04. Director.** The Director of the Idaho Department of Health and Welfare or his designee. (12-31-91)

**05. Finding.** A determination, as the result of a survey or complaint investigation of the facility, that a potential compliance issue is present and could or should have been prevented or has not yet been identified by the facility, is not being corrected by proper action by the facility, or cannot be justified by special circumstances unique to the facility or the resident. A finding may or may not be cited as a deficiency based upon the scope and severity. (6-8-90)

**06. Immediate Jeopardy.** The State Survey Agency has determined that residents are subject to an imminent or substantial danger. (6-8-90)

**07. Initial Deficiency.** The first time that a deficiency or deficiencies is recorded by a surveyor as the result of a survey or complaint investigation. Initial deficiency may be records of deficiencies that occurred prior to the date of the survey visit even if the deficiencies no longer exist at the time of the current survey. (6-8-90)

**08. Monitor.** A representative of the State Survey Agency placed in a facility for the purpose of verifying a facility's correction of deficiencies or to observe the orderly transfer of residents and/or a facility closure. (6-8-90)

**09. Long Term Care Facility.** An institution (or a distinct part of an institution) which is: (6-8-90)

**a.** Licensed in the state of Idaho as a Skilled Nursing Facility and/or Intermediate Care Facility; and

- (6-8-90)
- b. Has in effect a current provider agreement with the Idaho Medicaid program. (6-8-90)
- 10. Program Requirement.** Any requirement contained in Subsection 1919(b), (c) or (d) of the Social Security Act of 1935, as amended, including, but not limited to, the provisions implemented by the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203. (6-8-90)
- 11. Repeat Deficiency.** A deficiency which recurs within eighteen (18) months of citing as an initial deficiency and which is found at a follow-up visit, complaint investigation, subsequent survey or otherwise. (6-8-90)
- 12. Repeated Noncompliance.** A finding of substandard quality of care on three (3) consecutive surveys and/or visits. (6-8-90)
- 13. Resurvey.** A follow-up visit to determine whether the deficiencies found in a survey and/or complaint investigation have been corrected. (6-8-90)
- 14. Scope.** The frequency, incidence or extent of the occurrence of a deficiency in a facility. (6-8-90)
- 15. Severity.** The seriousness of a deficiency which means the degree of actual or potential negative impact on a resident (as measured by negative outcomes or rights violations) or the degree to which his highest practicable physical, mental or psychosocial well-being has been compromised. (6-8-90)
- 16. State Medicaid Agency.** The Medicaid Policy Section of the Department. (6-8-90)
- 17. State Survey Agency.** The Licensing and Certification Section of the Department. (6-8-90)
- 18. Subsequent Deficiency.** A violation or deficiency found on a resurvey or revisit. The deficiency must exist at the time of the resurvey or revisit. If a deficiency cited in an initial deficiency is found upon resurvey or revisit, a rebuttable presumption arises that the deficiency continued throughout the period of time between the initial survey or visit and the resurvey or revisit. (6-8-90)
- 19. Substandard Quality of Care.** A finding by the State Survey Agency of one (1) or more deficiencies, the existence of which limits the facility's ability to deliver adequate care or services. (6-8-90)
- 20. Survey.** An onsite review conducted by a surveyor utilizing a review of a case-mix stratified sample of nursing facility residents to determine compliance in one (1) or more of the following areas: quality of care furnished as measured by indicators of medical, nursing and rehabilitative care, resident rights, administrative services, dietary and nutrition services, activities and social participation, sanitation, infection control and physical environment. Such survey may include an exit interview in which the surveyor and the facility attempt to resolve any conflicts regarding findings by the surveyor(s). (6-8-90)
- 21. Surveyor.** A person or other entity authorized by the state Survey Agency to conduct surveys or complaint investigations to determine compliance with program requirements. (6-8-90)
- 22. Termination of the Facility's Participation.** Exclusion of a facility from participation as a provider under the Idaho State Medicaid program by terminating an existing Medicaid provider agreement or by the nonrenewal of an expired agreement. (6-8-90)

**004. REMEDIES.**

If the Department finds that a facility does not or did not meet a program requirement governing nursing facilities it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (6-8-90)

- 01. Termination of the Facility's Participation.** Termination of the facility's participation from the Medicaid program. (6-8-90)

**02. Denial of Medicaid Payments.** Denial of Medicaid payments for services rendered by the facility to any recipient admitted to the facility after notice to the facility. This remedy shall remain in effect until the Department determines that the facility has achieved substantial compliance with all program requirements, or until a substitute remedy is imposed. (6-8-90)

**a.** A facility subject to this remedy may request termination of the remedy on the grounds that it has achieved substantial compliance with program requirements. The Department shall respond to the request by denying the request, terminating the remedy, requesting additional information if documentation of substantial compliance is considered insufficient, or conducting a resurvey within twenty (20) calendar days of receipt of the request. (6-8-90)

**b.** This remedy shall not be imposed with respect to temporarily hospitalized recipients previously residing in a facility placed on notice of denial of Medicaid payments who return to the facility after the date of notice, or with respect to residents who become Medicaid eligible after notice and who resided in the facility prior to the effective date of denial of payment. (6-8-90)

**03. Civil Monetary Penalties.** Civil monetary penalties as specified in Section 012. Interest on each penalty shall be assessed for each infraction as described in Subsection 012.05. When penalties are imposed on a facility, such penalties shall be assessed and collected for each day in which the facility is or was out of compliance with a program requirement. (12-31-91)

**04. Temporary Management.** Temporary management as specified in Section 017 to oversee operation of the facility, and to assure the health and safety of the facility's residents while there is an orderly transfer of residents and/or closure of the facility or while improvements are made in order to bring the facility into compliance with all program requirements. (12-31-91)

**05. Resident Transfer and/or Facility Closure.** Require transfer of residents and/or closure of the facility in the case of an emergency as described in Subsection 010.01. (12-31-91)

**06. Directed Plan of Correction.** A plan of correction which is developed by the State Survey Agency delineating the time and manner in which each deficiency is to be corrected. (6-8-90)

**07. Ban on Admission of Persons With Certain Diagnoses or Requiring Specialized Care.** Such bans may be imposed for all such prospective residents and shall prevent the facility from admitting the kinds of residents it has shown an inability to provide adequate care for. (6-8-90)

**08. Ban on Admission.** Such bans to the facility or to any part thereof shall remain in effect until the State Survey Agency determines that the facility has achieved substantial compliance with all program requirements or until a substitute remedy is imposed. A facility may request termination of this remedy in the manner described in Subsection 004.02.a. (12-31-91)

**09. Assignment of Monitors to Facility.** Assignment of one (1) or more monitors in the facility by the State Survey Agency to verify correction of deficiencies or to observe the orderly transfer of residents and/or a facility closure. (6-8-90)

**10. Reduce Licensed Bed Capacity.** Require the licensed bed capacity of the facility be reduced to a level as determined by the State Survey Agency which will allow a safe and effective operation. (6-8-90)

**005. -- 009. (RESERVED).**

**010. IMPOSITION OF REMEDIES.**

In determining which remedy to recommend, the State Survey Agency shall consider the facility's compliance history, change of ownership, and the number, scope and severity of the deficiencies. Subject to these considerations the Department may impose any of the remedies described in Section 004. (12-31-91)

**01. Immediate Jeopardy.** If the State Survey Agency finds that the facility's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department shall: (6-8-90)

**a.** Appoint temporary management and, at its option, impose one (1) or more of the remaining remedies specified in Section 004; or (12-31-91)

**b.** Terminate the facility's Medicaid participation and, at its option, impose one (1) or more of the remaining remedies specified in Section 004. (12-31-91)

**02. Absence of Immediate Jeopardy.** If the State Survey Agency finds that the facility's deficiency or deficiencies do not immediately jeopardize resident health or safety, the Department may impose one (1) or more of the remedies specified in Section 004. (12-31-91)

**03. Repeated Noncompliance.** If the State Survey Agency and the Department make a determination of repeated noncompliance with respect to a facility, the State Medicaid Agency shall deny payment for services following notice to the facility and public for any individual admitted to the facility after the effective date of denial of payment as established in the notice set forth in Section 024. Additionally, the State Survey Agency shall monitor the facility on-site on an as needed basis, as provided in Section 018, until the facility has demonstrated to the State Survey Agency's satisfaction that it is in compliance with all program requirements governing facilities and that it will remain in compliance with such requirements. (12-31-91)

**04. Delayed Compliance.** If a facility has not corrected all deficiencies within three (3) months of the date the facility is found to have been out of compliance or as stated in the facility's accepted plan of correction, the Department shall impose the remedy of denial of payments for services to all Medicaid individuals admitted after the effective date of denial of payment as established in the notice to the facility and public. (6-8-90)

**011. CONFLICT OF REMEDIES.**

In the case of facilities participating in both Medicare and Medicaid which have been surveyed by both the State Survey Agency and the Health Care Financing Administration, or whose certification documents have been reviewed by both, and for whom the State Survey Agency and the Health Care Financing Administration disagree on the decision to impose a remedy or the choice of a remedy, the decision of the Health Care Financing Administration with regard to Medicare shall apply. (6-8-90)

**012. CIVIL MONETARY PENALTIES.**

Civil monetary penalties shall be based upon one (1) or more deficiencies. Actual harm to a resident or residents need not be shown. A single act, omission or incident shall not give rise to imposition of multiple penalties even though such act, omission or incident may violate more than one (1) program requirement. In such cases, the single highest class of deficiency shall be the basis for penalty. Compliance by the facility at a later date shall not result in the reduction of the penalty amount. Civil monetary penalties and any attorneys' fees or other costs associated with contesting such penalties are not reimbursable Medicaid expenses except in the case where a facility prevails, in which case reasonable attorneys' fees and costs shall be allowable. Whenever such penalties are collected, the Department shall conduct a financial field audit to ensure that there has been, and will be, no Medicaid reimbursement associated with the penalties. (6-8-90)

**01. Classification of Deficiencies.** The three (3) classes of deficiencies upon which civil monetary penalties shall be based are as follows: (6-8-90)

**a.** Class A: A deficiency or combination of deficiencies which places one (1) or more residents at substantial risk of serious physical or mental harm. (6-8-90)

**b.** Class B: A deficiency or combination of deficiencies, other than Class A deficiencies, which has a direct adverse effect on the health, safety, welfare or rights of residents. (6-8-90)

**c.** Class C: A deficiency or combination of deficiencies, other than Class A or B deficiencies, which indirectly or over a period of more than thirty (30) days is likely to have an adverse effect on the health, safety, welfare or rights of residents. (6-8-90)

**02. Amounts.** (12-31-91)

**a.** When civil monetary penalties are imposed, such penalties shall be assessed for each day the

facility is or was out of compliance. The amounts below shall be multiplied by the total number of beds certified for participation in the Medicare or Medicaid programs according to the records of the State Survey Agency at the time of the survey. Penalties shall be imposed for each class of deficiencies identified in a survey or complaint investigation.

| Class | Initial Finding | Subsequent Finding | Repeat Deficiency |
|-------|-----------------|--------------------|-------------------|
| A     | \$5.00          | \$7.50             | \$10.00           |
| B     | \$2.50          | \$3.75             | \$5.00            |
| C     | \$1.00          | \$1.50             | \$3.00            |

(12-31-91)

**b.** In any ninety (90) day period the penalty amounts may not exceed the applicable ceiling as described immediately below. The ceiling shall be determined by which category (initial, subsequent or repeat) has the largest percentage of the deficiencies cited in the survey or complaint investigation.

| Class | Initial Finding | Subsequent Finding | Repeat Deficiency |
|-------|-----------------|--------------------|-------------------|
| A     | \$10,000        | \$15,000           | \$20,000          |
| B     | \$8,000         | \$12,000           | \$16,000          |
| C     | \$4,000         | \$6,000            | \$8,000           |

(12-31-91)

**03. Procedures for Imposing Civil Monetary Penalties.** Civil monetary penalties shall be imposed as follows: (6-8-90)

**a.** Within ten (10) calendar days of the discovery of a deficiency, the State Survey Agency shall deliver to the Department its recommendation for assessment of a penalty as a result of such deficiency. (6-8-90)

**b.** The penalty shall be assessed by the Director. (12-31-91)

**04. Written Notice.** The Department shall give written notice to the facility of its imposition of any such penalty within ten (10) calendar days of its receipt of a recommendation by the State Survey Agency for the assessment of a penalty. The notice shall inform the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. (6-8-90)

**05. Payment.** Within fourteen (14) calendar days from the date the notice is received by the facility, the facility shall pay the full amount of the penalties unless the facility requests administrative review of the decision to assess the penalty or penalties. The amount of a civil monetary penalty determined through administrative review shall be paid within fourteen (14) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through a hearing shall be paid within thirty (30) calendar days of the facility's receipt of the hearing decision unless the facility files a petition for judicial review. Interest will be assessed and collected on all unpaid penalties at the legal rate of interest for judgments as set forth herein. Such assessments shall begin the later of one (1) calendar day after: (6-8-90)

**a.** The date of the initial assessment of the penalty; or (6-8-90)

**b.** The date of issuance of the administrative review, administrative hearing or the final judicial review decision. (6-8-90)

**06. Collection of Civil Penalties.** If a facility fails or refuses to pay a penalty within the time required,

the Department may collect the penalty by subtracting all or part of the penalty amount plus interest from future medical assistance payments to the facility. Nothing herein shall prohibit the Department from obtaining judicial enforcement of its right to collect penalties and interest thereon. (6-8-90)

**07. Failure to Pay.** Failure of a facility to pay the entire penalty, together with interest, as specified in Subsection 012.05, shall result in an automatic final decision and no further administrative or judicial review or hearing shall be available to the facility. (12-31-91)

**08. Imposition Against Individuals.** Each resident's functional capacity shall be assessed by the facility using an instrument specified by the Department. A civil money penalty of not more than one thousand dollars (\$1,000) per assessment shall be imposed by the Department against any individual who willfully and knowingly certifies a material and false statement in such assessment instrument or other documents used to support the assessment. A civil money penalty of not more than five thousand dollars (\$5,000) per assessment shall be imposed by the Department against any individual who willfully and knowingly causes another individual to certify a material and false statement in such assessment instrument or other documents used to support the assessment. Any such penalty shall be imposed by written notice to the individual according to the same provisions as set forth in Subsection 012.04 regarding deficiencies. (12-31-91)

**09. Staff Training.** All long term care facilities shall advise staff of the penalties for making false statements or causing another person to make false statements in a resident assessment. A facility must document the manner in which staff is advised of the provisions of Subsection 012.08. (12-31-91)

**10. Use of Civil Monetary Penalties.** The Department shall use civil monetary penalties receipts to protect the health and property of the residents including: (6-8-90)

- a. Maintenance or operation of a facility pending correction of deficiencies or closure; or (6-8-90)
- b. Paying costs of relocating residents; or (6-8-90)
- c. Reimbursing residents for personal funds lost, which reimbursement shall not adversely affect a person's Medicaid eligibility. (6-8-90)

**013. -- 016. (RESERVED).**

**017. TEMPORARY MANAGEMENT.**

The Department shall impose the remedy of temporary management in situations where the State Survey Agency finds that there is a need to oversee operation of the facility and to assure the health and safety of the facility's residents while there is an orderly transfer of residents of the facility to other facilities or while improvements are made in order to bring the facility into compliance with all program requirements. (6-8-90)

**01. Recommendation of Appointment.** Within five (5) calendar days of its completion of a survey or complaint investigation, the State Survey Agency shall deliver to the Department its written recommendation for appointment of temporary management if, in the agency's judgment, such appointment is necessary. The recommendation shall specify the grounds upon which it is based, including an assessment of the capability of the facility's current management to achieve and maintain compliance with all program requirements. (6-8-90)

**02. Temporary Management Appointment.** The Director shall appoint temporary management. (12-31-91)

**03. Facility Notice.** The Department shall give written notice to the facility of its appointment of temporary management within seven (7) calendar days of its receipt of a recommendation for appointment from the State Survey Agency unless the Department determines that temporary management is not necessary. When the State Survey Agency and Department have determined that the facility's deficiency or deficiencies immediately jeopardize the health or safety of its residents, no administrative review shall be required prior to appointment of temporary management and the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Section 311, "Rules Governing Contested Case Proceedings and Declaratory Rulings," shall apply. (12-31-91)

**04. Management Requirements.** The Director may appoint any person or organization which meets the following qualifications: (12-31-91)

**a.** The temporary manager shall not have any pecuniary interest in or preexisting fiduciary duty to the facility to be managed. (6-8-90)

**b.** The manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator or other management principal. (6-8-90)

**c.** The manager must possess sufficient training, expertise and experience in the operation of a nursing facility as would be necessary to achieve the objectives of temporary management. The manager must possess an Idaho nursing home administrator's license. (6-8-90)

**d.** The manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (6-8-90)

**05. Powers and Duties of the Temporary Management.** The temporary manager shall have the authority to direct and oversee the correction of program requirement deficiencies; to oversee and direct the management, hiring and discharge of any consultant or employee including the administrator of the facility; to direct the expenditure of the revenues of the facility in a reasonable, prudent manner; to oversee the continuation of the business and the care of the residents; to oversee and direct those acts necessary to accomplish the goals of the program requirements; and to direct and oversee regular accounting and the making of periodic reports to the State Survey Agency. The temporary manager shall provide reports no less frequently than monthly showing the facility's compliance status. Should the facility fail or refuse to carry out the directions of the temporary manager, the Department shall terminate the facility's participation and may, at its discretion, impose any other remedies described in Section 004. (12-31-91)

**a.** The temporary manager shall observe the confidentiality of the operating policies, procedures, employment practices, financial information and all similar business information of the facility, except that the temporary manager shall make reports to the State Survey Agency as provided in this section. (6-8-90)

**b.** The temporary manager shall be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's funds, and breaches of fiduciary duty. The temporary manager shall be bonded in an amount equal to the facility's revenues for the month preceding the appointment of the temporary manager. (6-8-90)

**c.** The temporary manager shall not have authority to do the following: (6-8-90)

**i.** To cause or direct the facility or its owner to incur debt or to enter into any contract with a duration beyond the term of the temporary management of the facility; (6-8-90)

**ii.** To cause or direct the facility to encumber its assets or receivables, or the premises on which it is located, with any lien or other encumbrance; (6-8-90)

**iii.** To cause or direct the sale of the facility, its assets or the premises on which it is located; (6-8-90)

**iv.** To cause or direct the facility to cancel or reduce its liability or casualty insurance coverage; (6-8-90)

**v.** To cause or direct the facility to default upon any valid obligations previously undertaken by the owners or operators of the facility including, but not limited to, leases, mortgages and security interests; and (6-8-90)

**vi.** To incur, without the permission of the owner or the Department, capital expenditures in excess of two thousand dollars (\$2,000) unless the capital expenditures are directly related to correcting the identified deficiencies. (6-8-90)

**06. Costs.** All compensation and per diem costs of the temporary manager shall be paid by the long



term care facility. The Department shall bill the facility for the costs of the temporary manager after termination of temporary management. The costs of the temporary manager for any thirty (30) day period shall not exceed one-sixth (1/6) of the maximum allowable administrator's annual salary for the largest nursing facility for Medicaid reimbursement purposes. Within fifteen (15) calendar days of receipt of the bill, the facility shall pay the bill or request Administrative Review to contest the costs for which it was billed. Such costs shall be recoverable through recoupment from future medical assistance payments in the same fashion as a benefits overpayment. The costs of temporary management and the attorneys' fees associated with contesting such costs are not reimbursable Medicaid expenses except in the case where a facility prevails in a hearing, in which case reasonable attorneys' fees and costs shall be allowable. (6-8-90)

**07. Termination of Temporary Management.** The Department may replace any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement but written notice of any action shall be given the facility including the name of any replacement manager. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition shall include why the replacement of a temporary manager is necessary or appropriate. The Department shall respond to a petition for replacement within five (5) calendar days after receipt of said petition. (6-8-90)

**a.** The Department shall not terminate temporary management until it has reasonable assurances that the facility has management capability to ensure continued compliance with all program requirements or until the Department terminates the long term care facility's participation. (6-8-90)

**b.** A facility may petition the Department for termination of temporary management. The petition shall include why the termination or a temporary manager is necessary or appropriate. The Department shall respond to the petition within five (5) calendar days after receipt. (6-8-90)

**018. MONITORING.**

The State Survey Agency shall maintain procedures and assign monitor(s) onsite as necessary. (6-8-90)

**01. Assignment of Monitor.** One (1) or more monitor(s) shall be assigned to the long term care facility: (6-8-90)

**a.** When it has been found on three (3) consecutive standard surveys that the long term care facility has provided substandard quality of care; or (6-8-90)

**b.** After the facility has been under temporary management. (6-8-90)

**02. Verification of Correction.** In addition, the State Survey Agency may assign one (1) or more monitors in the long term care facility to verify that the violations are or continue to be corrected. (6-8-90)

**03. Costs.** All costs associated with the monitoring of the facility shall be paid by the long term care facility. The Department shall bill the facility for the expenses of monitoring at the end of the monitoring process. Within fifteen (15) calendar days of receipt of the bill the facility shall pay the costs or request administrative review. Such costs may be recoverable through recoupment from future medical assistance payments in the same fashion as a benefits overpayment. Such costs are not allowable in developing the facility's Medicaid cost settlement. (6-8-90)

**019. -- 023. (RESERVED).**

**024. NOTICE.**

The Department shall give notice of the imposition of any remedy described in these rules as follows: (6-8-90)

**01. In Writing and Timely.** To the facility in writing, transmitted in a manner which will reasonably ensure timely receipt by the facility. (6-8-90)

**02. Notice to the Public.** The facility shall post all notices so provided in a manner and in places including, but not limited to, entrances, exits and common areas so that such notices may reasonably be expected to be read by the facility's residents or their representatives. The notices shall remain in place until all remedies are

officially removed by the State Survey Agency. (6-8-90)

**03. Notice to Ombudsman.** To the state long term care ombudsman. (6-8-90)

**04. Notice to Attending Physician.** To the attending physician of each resident affected by a finding of substandard quality of care. (6-8-90)

**05. Notice to Professional Licensing Boards.** To professional licensing boards, as appropriate. (6-8-90)

**06. Department Failure of Notice.** Failure of the Department to effect notice as required in Subsections 024.02 through 024.05 shall not be grounds for the facility to contest any action taken under these rules. (12-31-91)

**025. -- 995. (RESERVED).**

**996. ADMINISTRATIVE PROVISIONS.**

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings". (12-31-91)

**997. CONFIDENTIALITY OF RECORDS.**

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records". (12-31-91)

**998. INCLUSIVE GENDER**

As used in these rules, the masculine, feminine, or neuter gender, and the singular or plural number, will each be deemed to include the others whenever the context so requires. (6-8-90)

**999. SEVERABILITY.**

Idaho Department of Health and Welfare Rules, IDAPA 16.03.12, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of the chapter. (6-8-90)

# Subject Index

## A

Amounts, Civil Monetary Penalties 5  
Assignment of Monitor 9  
Assignment of Monitors to Facility,  
Remedies 4

## B

Ban On Admission of Persons With  
Certain Diagnoses or Requiring  
Specialized Care, Remedies 4  
Ban on Admission, Remedies 4

## C

Civil Monetary Penalties 5  
Civil Monetary Penalties, Assessed for  
Each Infraction, Remedies 4  
Classification of Deficiencies, Civil  
Monetary Penalties 5  
Collection of Civil Penalties 6  
Complaint Investigation 2  
Conflict Of Remedies 5  
Costs, Monitoring 9  
Costs, Temporary Management 8

## D

Deficiency 2  
Definitions, IDAPA 16.03.12, Rules  
Governing Long Term Care Provider  
Remedies In Idaho 2  
Delayed Compliance, Imposition of  
Remedies 5  
Denial of Medicaid Payments,  
Remedies 4  
Department Failure of Notice 10

## F

Facility Notice, Temporary  
Management 7  
Failure to Pay, Civil Monetary  
Penalties 7

## I

Immediate Jeopardy 2  
Immediate Jeopardy, Imposition of  
Remedies 4  
Imposition Against Individuals, Civil  
Monetary Penalties 7  
Imposition Of Remedies 4  
In Writing & Timely, Notice 9  
Initial Deficiency 2

## L

Long Term Care Facility 2

## M

Management Requirements, Temporary  
Management 8  
Monitor 2  
Monitoring 9

## N

Notice 9  
Notice to Attending Physician 10  
Notice to Ombudsman 10  
Notice to Professional Licensing  
Boards 10  
Notice to the Public 9

## P

Powers & Duties of the Temporary  
Management 8  
Procedures for Imposing Civil  
Monetary Penalties 6  
Program Requirement 3

## R

Reduce Licensed Bed Capacity,  
Remedies 4  
Remedies 3  
Repeat Deficiency 3  
Repeated Noncompliance 3  
Repeated Noncompliance, Imposition  
of Remedies 5  
Resident Transfer & Facility Closure,  
Remedies 4  
Resurvey 3

## S

Severity 3  
Staff Training, Civil Monetary  
Penalties 7  
State Medicaid Agency 3  
State Survey Agency 3  
Subsequent Deficiency 3  
Substandard Quality of Care 3  
Survey 3  
Surveyor 3

## T

Temporary Management 7  
Temporary Management  
Appointment 7  
Temporary Management, Oversee  
Operation of the Facility,  
Remedies 4  
Termination of Temporary  
Management 9  
Termination of the Facility's  
Participation 3  
Termination of the Facility's  
Participation, Remedies 3

## V

Verification of Correction,  
Monitoring 9