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**IDAPA 16
TITLE 03
CHAPTER 013**

16.03.13 - CONSUMER-DIRECTED SERVICES

000. LEGAL AUTHORITY.

In accordance with Sections 56-202, 56-203, and Sections 56-250 through 257, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the provision of consumer-directed services. (3-30-07)

001. TITLE AND SCOPE.

01. Title. These rules will be cited as IDAPA 16.03.13, "Consumer-Directed Services." (3-30-07)

02. Scope. Self-Directed Community Supports (SDCS) is a flexible program option for participants eligible for the Home and Community Based Services - Developmental Disabilities (HCBS-DD) waiver. The SDCS option allows the eligible participant to: choose the type and frequency of supports he wants, negotiate the rate of payment, and hire the person or agency he prefers to provide those supports. (3-30-07)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. (3-30-07)

003. ADMINISTRATIVE APPEALS.

All administrative appeals are governed by provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-30-07)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (3-30-07)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-30-07)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (3-30-07)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-30-07)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-30-07)

05. Internet Website. The Department's internet website is found at: www.healthandwelfare.idaho.gov. (3-30-07)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-30-07)

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public

records in the custody of the Department are subject to disclosure. (3-30-07)

007. (RESERVED).

008. AUDIT, INVESTIGATION AND ENFORCEMENT.

In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse and Misconduct." (3-30-07)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. The fiscal employer agent must verify that each support broker and community support worker, whose criminal history check has not been waived by the participant, has complied with IDAPA 16.05.06, "Criminal History and Background Checks." When a participant chooses to waive the criminal history check requirement for a community support worker, the waiver must be completed in accordance with Section 150 of these rules. (3-30-07)

02. Availability to Work or Provide Service. Participants, at their discretion, may review the completed application and allow the community support worker to provide services on a provisional basis if no disqualifying offenses listed in IDAPA 16.05.06, "Criminal History and Background Checks," are disclosed. (3-30-07)

03. Additional Criminal Convictions. Once criminal history clearances have been received, any additional criminal convictions must be immediately reported by the worker to the participant and by the participant to the Department. (3-30-07)

04. Notice of Pending Investigations or Charges. Once criminal history clearances have been received, any charges or investigations for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints, must be immediately reported by the worker to the participant and by the participant to the Department. (3-30-07)

05. Providers Subject to Criminal History Check Requirements. A community support worker, who has not had the requirement waived by the participant, and a support broker as defined in Section 010 of these rules. (3-30-07)

010. DEFINITIONS.

01. Circle of Supports. People who encourage and care about the participant and provide unpaid supports. (3-30-07)

02. Community Support Worker. An individual, agency, or vendor selected and paid by the participant to provide community support worker services. (3-30-07)

03. Community Support Worker Services. Community support worker services are those identified supports listed in Section 110 of these rules. (3-30-07)

04. Financial Management Services. Services provided by a fiscal employer agent that include: (3-30-07)

a. Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (3-30-07)

b. Performing payroll services; and (3-30-07)

c. Handling billing and employment related documentation responsibilities. (3-30-07)

05. Fiscal Employer Agent. An agency that provides Financial Management Services to participants

who have chosen the SDCS option. (3-30-07)

06. Goods. Tangible products or merchandise that are authorized on the support and spending plan. (3-30-07)

07. Guiding Principles for the SDCS Option. Self-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles: (3-30-07)

a. Freedom for the participant to make choices and plan his own life; (3-30-07)

b. Authority for the participant to control resources allocated to him to acquire needed supports; (3-30-07)

c. Opportunity for the participant to choose his own supports; (3-30-07)

d. Responsibility for the participant to make choices and take responsibility for the result of those choices; and (3-30-07)

e. Shared responsibility between the participant and his community to help the participant become an involved and contributing member of that community. (3-30-07)

08. Supports. Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support. (3-30-07)

09. Support Broker. An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker Services. (3-30-07)

10. Support Broker Services. Services provided by a support broker to assist the participant with planning, negotiating, and budgeting. (3-30-07)

011. -- 099. (RESERVED).

100. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) OPTION.

The SDCS option requires the participant to have a support broker to assist the participant to make informed choices, participate in a person-centered planning process, and become skilled at managing his own supports. The participant must use a fiscal employer agent to provide Financial Management Services (FMS) for payroll and reporting functions. (3-30-07)

101. ELIGIBILITY.

01. Determination of Medicaid and Home and Community Based Services - DD Requirements. In order to choose the SDCS option, the participant must first be determined Medicaid-eligible and must be determined to meet existing (HCBS-DD) waiver program requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

02. Participant Agreement Form. The participant, and his legal representative, if one exists, must agree in writing using a Department-approved form to the following: (3-30-07)

a. Accept the guiding principles for the SDCS option, as defined in Section 010 of these rules; (3-30-07)

b. Agree to meet the participant responsibilities outlined in Section 120 of these rules; (3-30-07)

c. Take responsibility for and accept potential risks, and any resulting consequences, for their support choices. (3-30-07)

03. Legal Representative Agreement. The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the SDCS option. (3-30-07)

102. -- 109. (RESERVED).

110. PAID SELF-DIRECTED COMMUNITY SUPPORTS.

The participant must purchase Financial Management Services and support broker services to participate in the SDCS option. The participant must purchase goods and community supports through the fiscal employer agent. (3-30-07)

01. Fiscal Management Services. The Department will contract with a fiscal employer agent, as defined in Section 010 of these rules, to provide Financial Management Services to a participant who chooses the self-directed option. (3-30-07)

02. Support Broker. Support broker services are provided by a qualified support broker. (3-30-07)

03. Community Support Worker. The community support worker provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification. Identified supports include activities that address the participant's preference for: (3-30-07)

a. Job support to help the participant secure and maintain employment or attain job advancement; (3-30-07)

b. Personal support to help the participant maintain health, safety, and basic quality of life; (3-30-07)

c. Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-30-07)

d. Emotional support to help the participant learn and practice behaviors consistent with his goals and wishes while minimizing interfering behaviors; (3-30-07)

e. Learning support to help the participant learn new skills or improve existing skills that relate to his identified goals; (3-30-07)

f. Transportation support to help the participant accomplish his identified goals; (3-30-07)

g. Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes his increased independence; and (3-30-07)

h. Skilled nursing support identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed professional (RN) nurse or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. (3-30-07)

111. -- 119. (RESERVED).

120. PARTICIPANT RESPONSIBILITIES.

With the assistance of the support broker and the legal representative, if one exists, the participant is responsible for the following: (3-30-07)

01. Guiding Principles. Accepting and honoring the guiding principles for the SDCS option found in Section 010 of these rules. (3-30-07)

02. Person-Centered Planning. Participating in the person-centered planning process in order to identify and document support and service needs, wants, and preferences. (3-30-07)

03. Rates. Negotiating payment rates for all paid community supports he wants to purchase, ensuring rates negotiated for supports and services do not exceed the prevailing market rate, and including the details in the employment agreements. (3-30-07)

04. Agreements. Completing and implementing agreements for the fiscal employer agent, the support broker and community support workers and submitting the agreements to the fiscal employer agent. These agreements must be submitted on Department-approved forms. (3-30-07)

05. Agreement Detail. Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that he possesses the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; and no employer-related claims will be filed against the Department. (3-30-07)

06. Plan. Developing a comprehensive support and spending plan based on the information gathered during the person-centered planning. (3-30-07)

07. Timesheets and Invoices. Reviewing and verifying that supports being billed were provided and indicating that he approves of the bill by signing the timesheet or invoice. (3-30-07)

08. Quality Assurance and Improvement. Providing feedback to the best of his ability regarding his satisfaction with the supports he receives and the performance of his workers. (3-30-07)

121. -- 129. (RESERVED).

130. FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.

01. Requirements. The fiscal employer agent must meet the requirements outlined in its contract with the Department. (3-30-07)

02. Limitations. The fiscal employer agent must not: (3-30-07)

a. Provide any other direct services to the participant, to ensure there is no conflict of interest; or (3-30-07)

b. Employ the guardian, parent, spouse, payee or conservator of the participant or have direct control over the participant's choice. (3-30-07)

131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.

The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services include: (3-30-07)

01. Payroll and Accounting. Providing payroll and accounting supports to participants that have chosen the Self-Directed Community Supports option; (3-30-07)

02. Financial Reporting. Performing financial reporting for employees of each participant. (3-30-07)

03. Information Packet. Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring his own staff. (3-30-07)

04. Time Sheets and Invoices. Processing and paying time sheets for community support workers and support brokers, as authorized by the participant, according to the participant's Department-authorized support and spending plan; (3-30-07)

05. Taxes. Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-30-07)

06. Payments for Goods and Services. Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-30-07)

07. Spending Information. Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-30-07)

08. Quality Assurance and Improvement. Participating in Department quality assurance activities. (3-30-07)

132. -- 134. (RESERVED).

135. SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.

01. Initial Application to Become a Support Broker. Individuals interested in becoming a support broker must complete the Department-approved application to document that he: (3-30-07)

a. Is eighteen (18) years of age or older; (3-30-07)

b. Has skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (3-30-07)

c. Has at least two (2) years verifiable experience with the target population and knowledge of services and resources in the developmental disabilities field. (3-30-07)

02. Application Exam. Applicants that meet the minimum requirements outlined in this section will receive training materials and resources to prepare for the application exam. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements outlined in these rules, will be eligible to enter into a provider agreement with the Department. (3-30-07)

03. Required Ongoing Training. All support brokers must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of support broker services. Up to six (6) hours of the required twelve (12) hours may be obtained through independent self-study. The remaining hours must consist of classroom training. (3-30-07)

04. Termination. The Department may terminate the provider agreement when the support broker: (3-30-07)

a. Is no longer able to pass a criminal history background check as outlined in Section 009 of these rules. (3-30-07)

b. Puts the health or safety of the participant at risk by failing to perform job duties as outlined in the employment agreement. (3-30-07)

c. Does not receive and document the required ongoing training. (3-30-07)

05. Limitations. The support broker must not: (3-30-07)

a. Provide or be employed by an agency that provides paid community supports under Section 150 of these rules to the same participant; and (3-30-07)

b. Be the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over

the participant's choices. Additionally, the support broker must not be in a position to both influence a participant's decision making and receive undue financial benefit from the participant's decisions. (3-30-07)

136. SUPPORT BROKER DUTIES AND RESPONSIBILITIES.

01. Support Broker Initial Documentation. Prior to beginning employment for the participant, the support broker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. This packet must include documentation of: (3-30-07)

- a.** Support broker application approval by the Department; (3-30-07)
- b.** A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; and (3-30-07)
- c.** A completed employment agreement with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services. The negotiated rate must not exceed the maximum hourly rate for support broker services established by the Department. (3-30-07)

02. Required Support Broker Duties. Support broker services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the support broker must: (3-30-07)

- a.** Participate in the person-centered planning process; (3-30-07)
- b.** Develop a written support and spending plan with the participant that includes the supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. This plan must be authorized by the Department; (3-30-07)
- c.** Assist the participant to monitor and review his budget; (3-30-07)
- d.** Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-30-07)
- e.** Participate with Department quality assurance measures, as requested; (3-30-07)
- f.** Assist the participant to complete the annual re-determination process as needed, including updating the support and spending plan and submitting it to the Department for authorization; (3-30-07)
- g.** Assist the participant, as needed, to meet the participant responsibilities outlined in Section 120 of these rules and assist the participant, as needed, to protect his own health and safety; and (3-30-07)
- h.** Complete the Department-approved criminal history check waiver form when a participant chooses to waive the criminal history check requirement for a community support worker. Completion of this form requires that the support broker provide education and counseling to the participant and his circle of support regarding the risks of waiving a criminal history check and assist with detailing the rationale for waiving the criminal history check and how health and safety will be protected. (3-30-07)

03. Additional Support Broker Duties. In addition to the required support broker duties, each support broker must be able to provide the following services when requested by the participant: (3-30-07)

- a.** Assist the participant to develop and maintain a circle of support; (3-30-07)
- b.** Help the participant learn and implement the skills needed to recruit, hire, and monitor community supports; (3-30-07)

- c.** Assist the participant to negotiate rates for paid community support workers; (3-30-07)
- d.** Maintain documentation of supports provided by each community support worker and participant's satisfaction with these supports; (3-30-07)
- e.** Assist the participant to monitor community supports; (3-30-07)
- f.** Assist the participant to resolve employment-related problems; and (3-30-07)
- g.** Assist the participant to identify and develop community resources to meet specific needs. (3-30-07)

04. Termination of Support Broker Services. If a support broker decides to end services with a participant, he must give the participant at least thirty (30) days' written notice prior to terminating services. The support broker must assist the participant to identify a new support broker and provide the participant and new support broker with a written service transition plan by the date of termination. The transition plan must include an updated support and spending plan that reflects current supports being received, details about the existing community support workers, and unmet needs. (3-30-07)

137. -- 139. (RESERVED).

140. COMMUNITY SUPPORT WORKER LIMITATIONS.

A paid community support worker must not be the spouse of the participant and must not have direct control over the participant's choices, must avoid any conflict of interest, and must not receive undue financial benefit from the participant's choices. A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following: (3-30-07)

01. Participant Responsibilities. The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules. (3-30-07)

02. Legal Guardian Obligations. The legal guardian must not be paid to fulfill any obligations he is legally responsible to fulfill as outlined in the guardianship or conservator order from the court. (3-30-07)

141. -- 149. (RESERVED).

150. PAID COMMUNITY SUPPORT WORKER DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the community support worker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. When the community support worker will be providing services, this packet must include documentation of: (3-30-07)

a. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," or documentation that this requirement has been waived by the participant. This documentation must be provided on a Department-approved form and must include the rationale for waiving the criminal history check and describe how health and safety will be assured in lieu of a completed criminal history check. Individuals listed on a state or federal provider exclusion list must not provide paid supports; (3-30-07)

b. A completed employment agreement with the participant that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the support to be provided. If the community support worker is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (3-30-07)

c. Current state licensure or certification if identified support requires certification or licensure; and (3-30-07)

d. A statement of qualifications to provide supports identified in the employment agreement. (3-30-07)

02. Employment Agreement. The community support worker must deliver supports as defined in the employment agreement. (3-30-07)

03. Documentation of Supports. The community support worker must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the participant's fiscal employer agent or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's fiscal employer agent. (3-30-07)

04. Timesheets and Invoices. The community support worker must obtain the signature of the participant or his legal representative on each completed timesheet or invoice prior to submitting the document to the fiscal employer agent for payment. Time sheets or invoices that are not signed by the community support worker and the participant or his legal representative will not be paid. (3-30-07)

151. -- 159. (RESERVED).

160. SUPPORT AND SPENDING PLAN DEVELOPMENT.

01. Support and Spending Plan Requirements. The participant, with the help of his support broker, must develop a comprehensive support and spending plan based on the information gathered during the person-centered planning. The support and spending plan is not valid until authorized by the Department and must include the following: (3-30-07)

a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in his community. (3-30-07)

b. Paid or non-paid self-directed community supports that focus on the participant's wants, needs, and goals in the following areas: (3-30-07)

i. Personal health and safety including quality of life preferences; (3-30-07)

ii. Securing and maintaining employment; (3-30-07)

iii. Establishing and maintaining relationships with family, friends and others to build the participant's circle of supports; (3-30-07)

iv. Learning and practicing ways to recognize and minimize interfering behaviors; and (3-30-07)

v. Learning new skills or improving existing ones to accomplish set goals. (3-30-07)

c. Support needs such as: (3-30-07)

i. Medical care and medicine; (3-30-07)

ii. Skilled care including therapies or nursing needs; (3-30-07)

iii. Community involvement; (3-30-07)

iv. Preferred living arrangements including possible roommate(s); and (3-30-07)

v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-30-07)

d. Risks or safety concerns in relation to the identified support needs on the participant's plan. The

plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (3-30-07)

e. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; and (3-30-07)

f. The budgeted amounts planned in relation to the participant's needed supports. Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily. The fiscal employer agent will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan prior to processing time sheets or invoices for payment. (3-30-07)

02. Support and Spending Plan Limitations. Support and spending plan limitations include: (3-30-07)

a. Traditional Medicaid waiver and traditional rehabilitative or habilitative services must not be purchased under the SDCS option. Because a participant cannot receive these traditional services and self-directed services at the same time, the participant, the support broker, and the Department must all work together to assure that there is no interruption of required services when moving between traditional services and the SDCS option; (3-30-07)

b. Paid community supports must not be provided in a group setting with recipients of traditional Medicaid waiver, rehabilitative or habilitative services. This limitation does not preclude a participant who has selected the self-directed option from choosing to live with recipients of traditional Medicaid services; (3-30-07)

c. All paid community supports must fit into one (1) or more types of community supports described in Section 110 of these rules. Community supports that are not medically necessary or that do not minimize the participant's need for institutionalization must only be listed as non-paid supports. Additionally, the support and spending plan must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; (3-30-07)

d. Support and spending plans that exceed the approved budget amount will not be authorized; and (3-30-07)

e. Time sheets or invoices that are submitted to the fiscal employer agent for payment that exceed the authorized support and spending plan amount will not be paid by the fiscal employer agent. (3-30-07)

161. -- 169. (RESERVED).

170. PERSON-CENTERED PLANNING.

01. Participation in the Person-Centered Planning Process. The participant agrees to participate in the person-centered planning process in order to identify and document his support and service needs, wants, and preferences. (3-30-07)

02. Participant Choice. The participant decides who he wants to participate in the planning sessions in order to ensure the participant's choices are honored and promoted. (3-30-07)

03. Facilitation of Person-Centered Planning Meetings. The participant may direct his person-centered planning meetings, or these meetings may be facilitated by the chosen support broker. (3-30-07)

04. Focus of Person-Centered Planning. The person-centered planning should focus on identifying strengths, capacities, preferences, needs, and desired goals of the participant for all life areas. (3-30-07)

05. Timeframes of Person-Centered Planning. The person-centered planning should be completed as timely as possible in order to provide the necessary information required to develop the participant's support and

spending plan. Time limitations are not currently mandated in order to allow for extensive, comprehensive planning and thoughtful support and spending plan development. (3-30-07)

171. -- 179. (RESERVED).

180. CIRCLE OF SUPPORTS.

The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports perform on behalf of the participant are not paid. (3-30-07)

01. Focus of the Circle of Support. The participant's circle of support should be built and operate with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action, along with and on behalf of the participant, to help the participant accomplish his personal goals. (3-30-07)

02. Members of the Circle of Support. A circle of support may include family members, friends, neighbors, co-workers, and other community members. When the participant's legal guardian is selected as a community support worker, the circle of support must include at least one (1) non-family member that is not the support broker. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian. (3-30-07)

03. Selection and Duties of the Circle of Support. Members of the circle of support are selected by the participant and commit to work within the group to: (3-30-07)

a. Help promote and improve the life of the participant in accordance with the participant's choices and preferences; and (3-30-07)

b. Meet on a regular basis to assist the participant to accomplish his expressed goals. (3-30-07)

04. Natural Supports. A natural support may perform any duty of the support broker as long as the support broker still completes the required responsibilities listed in Subsection 136.02 of these rules. Additionally, any community support worker task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's support plan, but time worked does not need to be recorded or reported to the fiscal employer agent. (3-30-07)

181. -- 189. (RESERVED).

190. INDIVIDUALIZED BUDGET.

The Department sets an individualized budget for each participant according to an individualized measurement of the participant's functional abilities, behavioral limitations, medical needs, and other individual factors related to the participant's disability. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. The participant must work within the identified budget and acknowledge that he understands the budget figure is a fixed amount. (3-30-07)

01. Implementation of Budget-Setting Methodology. During the implementation phase of using the new individualized budget-setting methodology, the budget calculation will include reviewing the participant's previous year's budget. When the calculated budget is less than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the calculated budget amount. When the calculated budget is greater than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the previous year's budget amount. The Department will collect information on discrepancies between the calculated budget and the previous year's budget as part of the ongoing assessment and improvement process of the budget-setting methodology. (3-30-07)

02. Budget Amount Notification and Request for Reconsideration. The Department notifies each participant of his set budget amount. The notification will include how the participant may request reconsideration of the set budget amount. (3-30-07)

03. Annual Re-Evaluation of Individualized Budgets. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's individualized needs and it is demonstrated that these additional needs cannot be supported by the current budget. (3-30-07)

191. -- 199. (RESERVED).

200. QUALITY ASSURANCE.

The Department will implement quality assurance processes to assure: access to self-directed services, participant direction of plans and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. (3-30-07)

01. Participant Experience Survey (PES). Each participant will have the opportunity to provide feedback to the Department about his satisfaction with self-directed services utilizing the PES. (3-30-07)

02. Participant Experience Outcomes. Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: (3-30-07)

- a.** Access to care; (3-30-07)
- b.** Choice and control; (3-30-07)
- c.** Respect and dignity; (3-30-07)
- d.** Community integration; and (3-30-07)
- e.** Inclusion. (3-30-07)

03. Fiscal Employer Agent Quality Assurance Activities. The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. (3-30-07)

04. Community Support Workers and Support Brokers Quality Assurance Activities. Community support workers and support brokers must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (3-30-07)

05. Participant Choice of Paid Community Support Worker. Paid community support workers must be selected by the participant, or his chosen representative, and must meet the qualifications identified in Section 150 of this rule. (3-30-07)

06. Complaint Reporting and Tracking Process. The Department will maintain a complaint reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (3-30-07)

07. Quality Oversight Committee. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-30-07)

08. Quarterly Quality Assurance Reviews. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved support and spending plan. (3-30-07)

201. -- 209. (RESERVED).

210. CONTINUATION OF THE SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) OPTION.

The following requirements must be met or the Department may require the participant to discontinue the SDCS option: (3-30-07)

01. Required Supports. The participant is willing to work with a support broker and a fiscal employer agent. (3-30-07)

02. Support and Spending Plan. The participant's support and spending plan is being followed. (3-30-07)

03. Risk and Safety Back-Up Plans. Back-up plans to manage risks and safety are being followed. (3-30-07)

04. Health and Safety Choices. The participant's choices do not directly endanger his health, welfare and safety or endanger or harm others. (3-30-07)

211. -- 999. (RESERVED).

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