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**IDAPA 16
TITLE 06
CHAPTER 06**

16.06.06 - DEVELOPMENTAL DISABILITIES FAMILY SUPPORT AND IN-HOME ASSISTANCE

000. LEGAL AUTHORITY.

The Director of the Idaho Department of Health and Welfare has the authority to promulgate these rules under Sections 56-202(b) and 39-5103, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.06.06, "Developmental Disabilities Family Support and In-Home Assistance." (3-30-07)

02. Scope. This chapter contains the general standards for administering the Developmental Disabilities Family Support and In-Home Assistance program, hereafter referred to as "DD Family Support." (3-30-07)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter of rules. (3-30-07)

003. GRIEVANCE PROCEDURE AND ADMINISTRATIVE APPEALS.

01. Grievance Procedure. Families who wish to appeal a benefit decision may file a grievance in accordance with Section 025 of these rules. The purpose of this option is to provide a means of resolving disputes over benefits without the need to resort to the formal administrative appeals process. However, the administrative appeals process remains available as an option. (3-30-07)

02. Administrative Appeals. Administrative appeals are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter of rules. (3-30-07)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- 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. (208) 334-5500. (3-30-07)

05. Internet Website Address. The website address is: <http://www.healthandwelfare.idaho.gov>. (3-30-07)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

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. (RESERVED).

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

01. Department. The Idaho Department of Health and Welfare (IDHW) or a person authorized to act on behalf of the Department. (3-30-07)

02. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: (3-30-07)

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (3-30-07)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (3-30-07)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (3-30-07)

03. Developmental Disabilities (DD) Family Support and In-Home Assistance Program. A Department program that operates under the authority of Title 39, Chapter 51, Idaho Code. The purpose of this program, also known simply as the "DD Family Support Program," is to provide assistance for families of individuals with developmental disabilities who are institutionalized, or to families of such individuals for whom institutionalization may be imminent, and who will, as a result of DD Family Support assistance, be able to return or keep their family member home. Additionally, DD Family Support assistance is intended to help families prior to a crisis in order to prevent the need for a family member with a developmental disability to move to an institutional or residential placement outside of the family's home. (3-30-07)

04. Developmental Disabilities (DD) Family Support Assistance. Funding provided to eligible families under the DD Family Support program. (3-30-07)

05. Developmental Disabilities (DD) Family Support Council. A volunteer group, made up mostly of people with developmental disabilities or their family members, whose purpose is to advise and consult with the Department in matters relating to the DD Family Support program. (3-30-07)

06. Director. The Director of the Idaho Department of Health and Welfare or his designee. (3-30-07)

07. Family. The term "family" does not include paid providers of care or providers of foster care. A family, as defined in Section 39-5102(6), Idaho Code, is a group of interdependent persons residing in the same household and includes an individual with a developmental disability and one (1) or more of the following: (3-30-07)

a. A birth or adoptive mother or father, stepparent, brother, sister, or any combination; (3-30-07)

b. Extended blood relatives, such as a grandparent, aunt, uncle, nephew, or niece; or (3-30-07)

c. A legal guardian. (3-30-07)

08. Title IV-E. The title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-30-07)

011. -- 024. (RESERVED).

025. GRIEVANCE PROCEDURE.

01. How Does a Family File a Grievance? Families who wish to file a grievance regarding a benefit decision must do so within thirty (30) days of receiving the decision. To file a grievance, families must submit a written request that outlines their reasoning to one (1) of the following: (3-30-07)

a. A DD Family Support Council, where available; (3-30-07)

b. The Regional Program Manager; or (3-30-07)

c. The Department's Central Office Program Manager. (3-30-07)

02. How is the Grievance Request Reviewed? (3-30-07)

a. The grievance request will be reviewed by the local DD Family Support Council, where available. (3-30-07)

b. If a DD Family Support Council is not available, or if a family disagrees with the decision of the DD Family Support Council, they may present a written grievance request to the Regional Program Manager. (3-30-07)

c. The Regional Program Manager will then contact the FACS Central Office Program Manager and two (2) individuals from the region to assist him with his review of the grievance. The two (2) individuals from the region selected by the Regional Program Manager may include members of the local DD Family Support Council, where available, or staff members with expertise in DD Family Support or Developmental Disabilities. The Regional Program Manager will issue a written decision regarding the grievance request within twenty (20) days after the grievance request was received. (3-30-07)

d. The Regional Program Manager will render a written decision on the grievance request within twenty (20) days of receiving the grievance. (3-30-07)

03. What Other Remedies are Available After the Grievance Process? If the family is still not satisfied with the decision, they may file an administrative appeal as provided under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)

026. -- 099. (RESERVED).

100. WHO IS ELIGIBLE FOR DEVELOPMENTAL DISABILITIES (DD) FAMILY SUPPORT ASSISTANCE?

Families who reside in Idaho and include a member with a developmental disability are eligible to receive DD Family Support assistance. The family must express a desire for the member with a developmental disability to reside at home and must submit a DD Family Support application to receive services. Families must obtain the agreed-upon services and account for the assistance funds expended for these services or equipment. (3-30-07)

01. How is the Determination of a Developmental Disability Made? The family member with a developmental disability must be determined by the Department to meet the developmental disability standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501. (3-30-07)

02. What Financial Information Must Be Provided? Families will not be asked to provide financial information as a requirement for participation in the DD Family Support program. Eligibility for the DD Family Support program will be determined by the Department separately from the determination of the benefit. The Department may require additional information of families in order to make eligibility decisions. (3-30-07)

101. WHO IS NOT ELIGIBLE TO RECEIVE DD FAMILY SUPPORT ASSISTANCE?

Paid providers of care are not eligible for DD Family Support assistance. A paid provider of care is anyone who receives state or federal payment for the care or therapy of an individual who has a developmental disability. An adoptive family receiving Title IV-E funds as part of an adoption agreement is not considered to be a paid provider of care and will not be excluded from receiving DD Family Support assistance because they receive Title IV-E funds. (3-30-07)

102. -- 199. (RESERVED).

200. HOW DOES A FAMILY APPLY FOR DD FAMILY SUPPORT ASSISTANCE?

01. Application for Service. Each family who wishes to receive DD Family Support assistance must apply for the assistance using the Department-approved "DD Family Support Application." (3-30-07)

02. Prior Authorization of Expenditure. Due to the limited funds available, the Department must approve the application and prior authorize the expenditure of assistance funds before the award of assistance is made to ensure that funds for the requested assistance for the identified needs are available. (3-30-07)

201. -- 299. (RESERVED).

300. HOW IS THE AMOUNT OF DD FAMILY SUPPORT ASSISTANCE DETERMINED?

01. Decisions Made Case-By-Case. The Department will determine each award of DD Family Support assistance on a case-by-case basis, with advice from DD Family Support Councils where they are available. The award of DD Family Support assistance in one (1) case sets no precedence for the award of DD Family Support assistance in the future. There is no guarantee that DD Family Support assistance funds will be available when a family applies. The Department may require additional information from families in order to make benefit decisions. (3-30-07)

02. Bases for DD Family Support Assistance Decisions. The Department will base its decisions regarding the award of DD Family Support assistance on the following: (3-30-07)

a. The ability of the assistance to allow an individual with a developmental disability to move into his family's home from an institution. (3-30-07)

b. The ability of the assistance to prevent the necessity of an individual moving into an institution. (3-30-07)

c. Priority will be given to families whose member with a developmental disability would face the most severe consequences without supports. (3-30-07)

d. Priority will be given to families whose member with a developmental disability has the greatest urgency of need. (3-30-07)

e. DD Family Support assistance is contingent on the availability of state and regional funding. (3-30-07)

301. WHAT SERVICES AND EQUIPMENT MAY BE PURCHASED USING DD FAMILY SUPPORT ASSISTANCE?

DD Family Support assistance can be used for any of the following items when those items are listed on the approved DD Family Support application. Assistance may only be used when no other payment source is available to the

individual with a developmental disability, or his family, to purchase the items requested on the DD Family Support application. The following services and equipment may be purchased under the DD Family Support program: (3-30-07)

01. Diagnostic or Evaluative Procedures. Diagnostic and evaluative procedures that are necessary to ensure the health and well-being of the individual with a developmental disability. (3-30-07)

02. Special Equipment. Special equipment or items required by the individual with a developmental disability or needed to assist the family to care for that individual. (3-30-07)

03. Therapeutic Services. Therapeutic Services to assist the individual with a developmental disability toward independence, or to maintain or improve his health, or to enhance his quality of life. (3-30-07)

04. Specialized Dietary Needs. Foods or nutrients required to meet the specialized dietary needs of the individual with a developmental disability. (3-30-07)

05. Medical and Dental Care. Medical and dental care that is not covered under the family's health insurance or publicly-funded programs. Such care must be required to maintain or improve health or to enhance quality of life for the family member with a developmental disability. (3-30-07)

06. Home Health, Nursing, or Personal Assistance Services (PCS). Home health, nursing, or personal assistance services may be purchased when the family is unable to meet the care demands of the individual with a developmental disability. (3-30-07)

07. Counseling Services. Counseling Services may be purchased for the individual with a developmental disability, or his family. Such counseling services can include behavior management. (3-30-07)

08. Respite Care. (3-30-07)

a. Respite Care may be purchased using DD Family Supports assistance. Respite care may not be utilized in the place of daycare when all caregiving family members are working. Assistance may be utilized for respite care or for out-of-the-ordinary expenses to cover supervised care beyond care costs expected for a typical person of the same age. (3-30-07)

b. Additional costs for the care of siblings during the provision of respite care may be covered when it is necessary for the primary caregivers to be absent. When the family caregivers must accompany the individual with a disability to treatment or evaluation appointments, reasonable sibling care costs may be covered. (3-30-07)

09. Adaptations or Technical Assistance. Environmental adaptations or technical assistance to permit successful integration and access for the individual with a developmental disability. (3-30-07)

10. Special Clothing. Specialized or adapted clothing required due to the family member's developmental disability, including incontinence supplies. Assistance may be used only for supplies that would exceed what a family would normally purchase except in extreme circumstances. (3-30-07)

11. Supports for Recreational Activities. Supports or assistance that allow the individual with a disability to join family and friends in leisure time or recreational activities. Assistance funds may not be used to pay for standard tickets, fees, or other costs that would typically be incurred by a person without a developmental disability. The necessary supports must be related to meeting special needs due to the developmental disability. (3-30-07)

12. Transportation. Transportation related to the care of the family member with a developmental disability. (3-30-07)

13. Housing Modifications. Housing modifications for the purposes of accessibility or ease in handling related to the needs of the person with a developmental disability. (3-30-07)

14. Similar or Related Costs. Costs for items or services that are similar in nature to the items listed above or are related to the effectiveness of the purchase of the items above. (3-30-07)

302. WHAT PAYMENT OPTIONS ARE AVAILABLE FOR DD FAMILY SUPPORT ASSISTANCE?
Families may use DD Family Support assistance only for services and equipment authorized on the approved DD Family Support application. Families may request any of the following payment options for their DD Family Support assistance. (3-30-07)

01. Advance Payment. The Department may authorize advance payment to families on an as-needed basis. If a family does not utilize all of the assistance provided under the approved DD Family Support application, they must return any unspent funds to the Department. (3-30-07)

02. Payment After the Service Has Been Delivered or Item Purchased. The Department may reimburse families for services or equipment after the service has been delivered or the item purchased when those costs were prior-authorized on an approved DD Family Support application. (3-30-07)

03. Payment Directly to Vendors or Providers of Services or Equipment. The Department may pay vendors or providers of services or equipment directly. In order to be paid directly, vendors must provide the Department with an itemized invoice that includes vendor name, address, Social Security number or Tax Identification number, and other documentation as requested by the Department. (3-30-07)

303. WHAT ARE THE DOCUMENTATION REQUIREMENTS FOR DD FAMILY SUPPORT ASSISTANCE?

01. Documentation Requirements for the Family. Each family who receives DD Family Support assistance must provide documentation to the Department of how the DD Family Support assistance was spent. Documentation must be provided on the Department-approved forms. Families who do not account for the use of DD Family Support assistance or refuse to repay assistance funds not used for the approved purposes, may be deemed ineligible for DD Family Support assistance for a period of time, determined by the Department, that will not exceed twelve (12) months. (3-30-07)

02. Documentation Requirements for the Developmental Disabilities Program. The Developmental Disabilities Program will maintain documentation of DD Family Support applications and a record of approved expenditures. (3-30-07)

304. HOW IS DD FAMILY SUPPORT ASSISTANCE TERMINATED?
The Department may terminate DD Family Support assistance under any of the following conditions: (3-30-07)

01. Family Action. The family requests termination; (3-30-07)

02. Death of the Individual with a Disability. The individual in the family with a developmental disability dies; (3-30-07)

03. Ineligibility. The eligibility criteria for DD Family Support assistance is no longer met; or (3-30-07)

04. Funding. Inadequate funds are available to continue providing DD Family Support assistance. (3-30-07)

05. Failure to Account for or Misuse of Funds. Families are unable or unwilling to account for funds previously received, or funds have been misused. (3-30-07)

305. -- 399. (RESERVED).

400. WHAT ARE THE PURPOSE, COMPOSITION, AND ROLES OF A DD FAMILY SUPPORT COUNCIL?

01. The Purpose of a DD Family Support Council. A DD Family Support Council is a volunteer group whose purpose is to advise and consult with the Department in matters relating to DD Family Support. (3-30-07)

02. Composition of a DD Family Support Council. The majority of a council's members must be people with a developmental disability or family members of people with a developmental disability. A council may also include other community members. Each DD Family Support Council member must be selected and approved by the Department's Regional Program Manager. The Department will make efforts to assure broad geographic representation. The DD Family Support Council members will be registered as volunteers with the Department of Health and Welfare. (3-30-07)

03. Roles of a DD Family Support Council. The roles of a DD Family Support Council include: (3-30-07)

- a.** Advise the Department on the use of DD Family Support funds; (3-30-07)
- b.** Offer program guidance through assistance with the establishment of a family-friendly procedure for administering DD Family Support funds; (3-30-07)
- c.** Provide feedback and review of decisions related to the administration of DD Family Support funds; (3-30-07)
- d.** Provide information and referral about community supports and available resources to augment DD Family Support program funds and serve as a secondary resource when denials are necessary; and (3-30-07)
- e.** Provide advocacy for the DD Family Support program. (3-30-07)

401. -- 999. (RESERVED).

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