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**IDAPA 16
TITLE 07
CHAPTER 33**

16.07.33 - ADULT MENTAL HEALTH SERVICES

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health authority, the responsibility to ensure that mental health services are available throughout the state of Idaho to individuals who need such care and who meet certain eligibility criteria under the Regional Mental Health Services Act, Title 39, Chapter 31, Idaho Code. Under Section 39-3133, Idaho Code, the Department is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. Under Section 56-1003(3)(c), Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (5-8-09)

001. TITLE AND SCOPE.

01. Title. The title of these rules is, IDAPA 16.07.33, "Adult Mental Health Services." (5-8-09)

02. Scope. (5-8-09)

a. This chapter defines the scope of voluntary adult mental health services administered under the Department's Division of Behavioral Health, and describes the eligibility criteria, application requirements, individualized treatment plan requirements, and appeal process under these rules. This chapter is not intended to, and does not, establish an entitlement for or to receive adult mental health services, nor is it intended to be applicable to individuals ordered by the court to receive mental health services. (5-8-09)

b. The priority population for this chapter is adult individuals, voluntarily seeking mental health services, who are residents of Idaho and have a primary diagnosis of serious and persistent mental illness. However, under certain circumstances, in accordance with the waiver provision in Section 400 of these rules, adult mental health services may be available to those who do not have a primary diagnosis of serious and persistent mental illness. (5-8-09)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (5-8-09)

003. ADMINISTRATIVE APPEALS.

01. Appeal of Denial Based on Eligibility Criteria. Administrative appeals from a denial of mental health services based on the eligibility criteria under Section 102 of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (5-8-09)

02. Appeal of Decision Based on Clinical Judgment. All decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (5-8-09)

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (5-8-09)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

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. (5-8-09)

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. (5-8-09)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (5-8-09)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (5-8-09)

05. Internet Web Site. The Department's internet website at <http://www.healthandwelfare.idaho.gov>. (5-8-09)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

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." (5-8-09)

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. (5-8-09)

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History and Background Check. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (5-8-09)

02. Availability to Work or Provide Service. Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (5-8-09)

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adult. An individual eighteen (18) years of age or older. (5-8-09)

02. Adult Mental Health Services. Adult mental health services include psychiatric clinical services, case management, individual therapy, group therapy, psychosocial rehabilitation (PSR), assertive community treatment (ACT), patient assistance program (PAP), benefit assistance, co-occurring disorders treatment, and pharmacological education. Mental health services do not include educational or vocational services related to traditional academic subjects or vocational training, experimental procedures, habilitation, or any other services which are primarily recreational or diversional in nature. (5-8-09)

03. Applicant. An adult individual who is seeking mental health services through the Department who has completed, or had completed on his behalf, an application for mental health services. (5-8-09)

04. Client. A person receiving mental health services through the Department. The term "client" is synonymous with the following terms: patient, participant, resident, consumer, or recipient of treatment or services. (5-8-09)

05. Clinical Judgment. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and mental health service needs. (5-8-09)

06. Clinical Necessity. Adult mental health services are deemed clinically necessary when the Department, in the exercise of clinical judgment, recommends services to an applicant for the purpose of evaluating, diagnosing, or treating a mental illness and that are: (5-8-09)

a. Clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for treating the applicant's mental illness; and (5-8-09)

b. Not primarily for the convenience of the applicant or service provider, not more costly than an alternative service or sequence of services, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's mental illness. (5-8-09)

07. Clinical Team. A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed client. (5-8-09)

08. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (5-8-09)

09. Emergency. An emergency exists if an adult individual is gravely disabled due to mental illness or there is a substantial risk that physical harm will be inflicted by the proposed client: (5-8-09)

a. Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (5-8-09)

b. Upon another person, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (5-8-09)

10. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>. (5-8-09)

11. Functional Impairment. Difficulties that substantially impair or limit role functioning with an individual's basic daily living skills, or functioning in social, family, vocational, or educational contexts including psychiatric, health, medical, financial, and community or legal area, or both. (5-8-09)

12. Gravely Disabled. An adult who, as a result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, essential medical care, shelter, or safety. (5-8-09)

13. Individualized Treatment Plan. A written action plan based on an intake eligibility assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (5-8-09)

14. Intake Eligibility Assessment. The collection of data, analysis, and review that the Department uses to screen and determine whether an applicant is eligible for mental health services available through the Department. (5-8-09)

15. Serious Mental Illness (SMI). Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): (5-8-09)

- a. Schizophrenia; (5-8-09)
- b. Paranoia and other psychotic disorders; (5-8-09)
- c. Bipolar disorders (mixed, manic and depressive); (5-8-09)
- d. Major depressive disorders (single episode or recurrent); (5-8-09)
- e. Schizoaffective disorders; and (5-8-09)
- f. Obsessive-compulsive disorders. (5-8-09)

16. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-IV-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: (5-8-09)

- a. Vocational or educational, or both. (5-8-09)
- b. Financial. (5-8-09)
- c. Social relationships or support, or both. (5-8-09)
- d. Family. (5-8-09)
- e. Basic daily living skills. (5-8-09)
- f. Housing. (5-8-09)
- g. Community or legal, or both. (5-8-09)
- h. Health or medical, or both. (5-8-09)

17. Sliding Fee Scale. A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

18. Substantial Material Change in Circumstances. A substantial and material change in circumstances which renders the Department's decision denying mental health services arbitrary and capricious. (5-8-09)

011. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES.

Adult mental health services may be accessed by eligible applicants through an application and request for initial intake eligibility assessment. (5-8-09)

101. ELIGIBILITY SCREENING AND INTAKE ELIGIBILITY ASSESSMENT.

01. Eligibility Screening. A screening for eligibility for adult mental health services through the Department is based on the eligibility criteria under Section 102 of these rules. If an applicant meets the eligibility criteria, he may be eligible for adult mental health services through the Department. If an applicant does not meet the eligibility criteria, he may be referred to other appropriate services. All applicants are required to complete an Application for Mental Health Services. If an applicant refuses to complete the Application for Mental Health Services, the Department reserves the right to discontinue the screening process for eligibility. (5-8-09)

02. Intake Eligibility Assessment. A qualified clinician will complete an intake eligibility assessment on the Department-approved form. The intake eligibility assessment and supplemental psychiatric, psychological, or other specialty evaluations and tests must be dated, signed, and retained in the applicant's medical record. The intake eligibility assessment must be directly related to the applicant's mental illness and level of functioning, and will include: (5-8-09)

- a. Application for Mental Health Services, pending document approval; (5-8-09)
- b. Notice of Privacy Practice (HW 0320); (5-8-09)
- c. Mental Health Client Profile; (5-8-09)
- d. Fee Determination Form (HW 0735); (5-8-09)
- e. Adult Health History Form (HW 0713); (5-8-09)
- f. Family Health History Form (HW 0715); and (5-8-09)
- g. Authorization for Disclosure. (5-8-09)

102. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of adults who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (5-8-09)

02. Eligibility Requirements. To be eligible for mental health services through a voluntary application to the Department, the applicant must: (5-8-09)

- a. Be an adult; and (5-8-09)
- b. Be a resident of the state of Idaho; and (5-8-09)
- c. Have a primary diagnosis of SPMI; or (5-8-09)
- d. Be determined eligible under the waiver provisions in Section 400 of these rules. (5-8-09)

03. Ineligible Conditions. An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, or who is aged or impaired by chronic alcoholism or drug abuse, is not eligible for mental health services, unless, in addition to such condition, he has a primary diagnosis of SPMI or is determined eligible under the waiver provisions in Section 400 of these rules. (5-8-09)

103. NOTICE OF CHANGES IN ELIGIBILITY FOR MENTAL HEALTH SERVICES.

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for mental health services. (5-8-09)

104. EMERGENCY SERVICES.

01. Determination of the Need for Emergency Services. At an applicant's first visit, and prior to making a final determination of eligibility, the Department will determine whether an applicant needs services to alleviate an emergency as defined under Section 010 of these rules. (5-8-09)

02. Identification of the Emergency Services Needed. If emergency services are clinically necessary, as determined by the Department, the Department will identify the emergency services that are consistent with the

applicant's needs and the preliminary findings of the intake eligibility assessment or subsequent assessments and: (5-8-09)

- a. Arrange for the provision of the emergency services; and (5-8-09)
- b. Document in the applicant's record the emergency services that are to be provided to the applicant. (5-8-09)

03. Immediate Intervention. If the Department determines that an emergency exists necessitating immediate intervention, emergency or crisis services will be arranged immediately. (5-8-09)

105. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within ten (10) business days of a receiving a completed intake eligibility assessment, the Department will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: (5-8-09)

- a. The applicant's name and identifying information; (5-8-09)
- b. A statement of the decision; (5-8-09)
- c. A concise statement of the reasons for the decision; and (5-8-09)
- d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Right to Accept or Reject Mental Health Services. If the Department determines that an applicant is eligible for mental health services through the Department, an individual has the right to accept or reject mental health services offered by the Department, unless imposed by law or court order. (5-8-09)

03. Reapplication for Mental Health Services. If the Department determines that an applicant is not eligible for mental health services through the Department, the applicant may reapply after six (6) months or at any time upon a showing of a substantial material change in circumstances. (5-8-09)

106. -- 199. (RESERVED)

200. INDIVIDUALIZED TREATMENT PLAN AND SELECTION OF SERVICE PROVIDERS.

The Department will prepare an individualized treatment plan for every client that addresses the mental health effects on the major life areas and is based on an assessment of the client's mental health needs. (5-8-09)

01. Individualized Treatment Plan. Overall responsibility for development and implementation of the plan will be assigned to a qualified professional staff member. A detailed individualized treatment plan will be developed within thirty (30) days following the Department's determination that an applicant is eligible for mental health services through the Department. The individualized treatment plan will include the following: (5-8-09)

- a. The services clinically necessary to meet the client's mental health needs; (5-8-09)
- b. Referrals for needed services not provided under these rules; (5-8-09)
- c. Goals that the client is to achieve; (5-8-09)
- d. Specific objectives that relate to the goals, written in measurable terms, with expected achievement dates; (5-8-09)
- e. Frequency of services; (5-8-09)
- f. Specific criteria to be met for discharge from treatment; and (5-8-09)

g. A specific plan for including the family or significant others. (5-8-09)

02. Selection of Providers. Within five (5) days of completing the individualized treatment plan, the clinical team will identify and select service providers most appropriate to meet the client's mental health needs. The case manager will promptly contact the identified providers to determine their ability to serve the client. (5-8-09)

201. -- 299. (RESERVED)

300. FINANCIAL RESPONSIBILITY FOR MENTAL HEALTH SERVICES.

Individuals receiving adult mental health services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form" prior to the delivery of adult mental health services. The financial responsibility for each service will be in accordance with the individual's ability to pay as determined under Sections 300 and 400 of IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

301. -- 399. (RESERVED)

400. WAIVERS.

01. Waiver of Certain Eligibility Criteria. Subject to funding, availability of adult mental health services or adult mental health providers, and the number of clients receiving adult mental health services through the Department, the Department may consider waiving, in its sole discretion, the eligibility requirement that applicants have a primary diagnosis of SPMI. (5-8-09)

02. A Waiver Decision Does Not Establish a Precedent. The Department's decision to grant a waiver, or not, to an applicant neither establishes a precedent nor is it applicable to any other applicant for a waiver. (5-8-09)

03. Waiver Decisions Are Not Subject to Review or Appeal. The Department's actions and decisions pertaining to waivers are not subject to review or appeal, administratively or otherwise, in accordance with *Mareh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). Waivers are not admissible in administrative hearings or proceedings under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (5-8-09)

401. -- 999. (RESERVED)

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