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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 Sections 56-1003(3)(c), 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (7-1-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.33, “Adult Mental Health Services.” (7-1-15)

02. Scope. This chapter defines the scope of services, eligibility criteria, application requirements, individualized treatment plan requirements, and appeal process for the provision of adult mental health services administered under the Department’s Division of Behavioral Health. (7-1-15)

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, Fifth Edition, (DSM-5) Washington, DC, American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, Va. 22209-3901. 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. (7-1-15)

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

01. Office Hours. 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. P.O. Box 83720, Boise, Idaho 83720-0036. (5-8-09)

03. Street Address. 450 West State Street, Boise, Idaho 83702. (5-8-09)

04. Telephone. (208) 334-5500. (5-8-09)

05. Internet Web Site. <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 Title, 74, Chapter 1, 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 owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers, who provide direct care or services, or whose position requires regular contact with clients, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-14)

02. Availability to Work or Provide Service. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. (7-1-14)

a. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. (7-1-14)

b. An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in this chapter, may not provide direct care or services, or serve in a position that requires regular contact with clients accessing adult mental health services through the Department. (7-1-14)

03. Waiver of Criminal History and Background Check Denial. A certified or uncertified individual who is seeking to provide Peer Support Specialist, Family Support Partner, or Recovery Coach services that receives an unconditional denial or a denial after an exemption review by the Department's Criminal History Unit, may apply for a Behavioral Health waiver as described in IDAPA 16.07.15 "Behavioral Health Programs," Section 009. (7-1-18)

010. DEFINITIONS - A THROUGH F.

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 are listed in Section 301 of these rules. These services are provided in response to the mental health needs of adults eligible for services required in Title 39, Chapter 31, Idaho Code, the Regional Behavioral Health Service Act, and under Section 102 of these rules. (7-1-15)

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. Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify a client's mental health issues, strengths, and service needs. (7-1-15)

05. Assertive Community Services. Comprehensive, intensive, and long-term rehabilitative services

provided to clients who suffer from serious and persistent mental illness (SPMI) who have not benefited from traditional outpatient programs. (7-1-15)

06. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. (7-1-15)

07. Behavioral Health Center. State-operated community-based centers located in each of the seven (7) geographical regions of Idaho that provide or arrange for adult mental health services listed under Section 301 of these rules. (7-1-15)

08. Case Management. A change-oriented service provided to clients that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (7-1-15)

09. 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)

10. 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)

11. 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)

12. 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)

13. Crisis Intervention Services. A set of planned activities designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. (7-1-15)

14. 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)

15. 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)

16. 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)

011. DEFINITIONS - G THROUGH Z. For the purposes of these rules, the following terms are used as defined below: (7-1-15)

- 01. Good Cause.** A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. (7-1-14)
- 02. 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)
- 03. 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)
- 04. Medication Management.** The in-depth management of medications for psychiatric disorders for relief of a client's signs and symptoms of mental illness, provided by a physician or mid-level practitioner. (7-1-15)
- 05. Mental Health Crisis.** A mental health crisis occurs when a sudden loss of an adult individual's ability to use effective problem-solving and coping skills leads to an imminent risk of harm to self or others, or decompensation to the point of the individual's inability to protect himself or herself. (7-1-15)
- 06. Outpatient Services.** Mental health services provided to a client who is not admitted to a psychiatric hospital or in a residential care setting. (7-1-15)
- 07. Psychiatric Services.** Medically necessary outpatient and inpatient services provided to treat and manage psychiatric disorders. (7-1-15)
- 08. Rehabilitative and Community-Based Services.** Skill-building services that foster rehabilitation and recovery provided to client recovering from a mental illness. (7-1-15)
- 09. Residential Care.** A setting for the treatment of mental health that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. (7-1-15)
- 10. 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, (DSM-5), incorporated in Section 004 of these rules: (7-1-15)
- a. Schizophrenia spectrum and other psychotic disorders; (7-1-15)
 - b. Bipolar disorders (mixed, manic and depressive); (5-8-09)
 - c. Major depressive disorders (single episode or recurrent); (5-8-09)
 - d. Obsessive-compulsive disorders. (5-8-09)
- 11. Serious and Persistent Mental Illness (SPMI).** A primary diagnosis under DSM-5 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: (7-1-15)
- 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)

12. 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)

13. 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)

012. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES.

Adult mental health services may be accessed either through an application for services, or through a court order for services. (7-1-15)

101. ELIGIBILITY SCREENING AND MENTAL HEALTH 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. The eligibility screening must be directly related to the applicant's mental illness and level of functioning and will include: (7-1-15)

- a. Application for Mental Health Services; (7-1-15)
- b. Notice of Privacy Practice; and (7-1-15)
- c. Authorization for Disclosure. (7-1-15)

02. Mental Health Assessment. Once a signed application or court order has been received for adult mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be completed by a Department clinician and will be documented using the Department's Idaho Standard Mental Health Assessment Report. (7-1-15)

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 SMI or SPMI; or (7-1-15)
- d. Be determined eligible under the waiver provisions in Section 400 of these rules. (5-8-09)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services according to Sections 18-212, 19-2524, and 66-329, Idaho Code. (7-1-15)

04. 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 SMI or SPMI or is determined eligible under the waiver provisions in Section 400 of these rules. (7-1-15)

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. CRISIS INTERVENTION SERVICES.

Crisis intervention services are available twenty-four (24) hours per day, seven (7) days per week to adults experiencing a mental health crisis as defined under Section 011 of these rules. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. (7-1-15)

01. Determination of the Need for Crisis Intervention Services. The Department will assess an adult experiencing a mental health crisis to determine whether services are needed to alleviate the crisis. (7-1-15)

02. Identification of the Crisis Intervention Services Needed. If crisis intervention services are clinically necessary, as determined by the Department, the Department will: (7-1-15)

- a. Identify the services needed to stabilize the crisis; (7-1-15)
- b. Arrange for the provision of the crisis intervention services; and (7-1-15)
- c. Document in the individual's record the crisis services that are to be provided to the individual. (7-1-15)

03. Immediate Intervention. If the Department determines that a mental health crisis exists necessitating immediate intervention, crisis services will be arranged immediately. (7-1-15)

105. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within fourteen (14) calendar days of receiving a signed application, the Department will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: (7-1-15)

- 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. -- 119. (RESERVED)

120. CLIENT'S RIGHTS AND RESPONSIBILITIES.

Each individual client receiving adult mental health services through the Department must be notified of his rights and responsibilities prior to the delivery of adult mental health services. (7-1-15)

01. Client to Be Informed of Rights and Responsibilities. The Department must inform each client of his rights and responsibilities. Each client must be given a written statement of client rights and responsibilities, which includes who the client may contact with questions, concerns, or complaints regarding services provided. (7-1-15)

02. Content of Client's Rights. The Department must assure and protect the fundamental human, civil, constitutional, and statutory rights of each client. The written client rights statement must, at a minimum, address the following: (7-1-15)

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; (7-1-15)

b. The right to a humane treatment environment that ensures protection from harm, provides privacy to as great a degree as possible with regard to personal needs and promotes respect and dignity for each individual; (7-1-15)

c. The right to communication in a language and format understandable to the individual client; (7-1-15)

d. The right to be free from mental, physical, sexual, and verbal abuse, as well as neglect and exploitation; (7-1-15)

e. The right to receive services within the least restrictive environment possible; (7-1-15)

f. The right to an individualized treatment plan, based on assessment of current needs; (7-1-15)

g. The right to actively participate in planning for treatment and recovery support services; (7-1-15)

h. The right to have access to information contained in one's record, unless access to particular identified items of information is specifically restricted for that individual client for clear treatment reasons in the client's treatment plan; (7-1-15)

i. The right to confidentiality of records and the right to be informed of the conditions under which information can be disclosed without the individual client's consent; (7-1-15)

j. The right to refuse to take medication unless a court of law has determined the client lacks capacity to make decisions about medications and is an imminent danger to self or others; (7-1-15)

k. The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others; (7-1-15)

l. The right to refuse to participate in any research project without compromising access to program services; (7-1-15)

m. The right to exercise rights without reprisal in any form, including the ability to continue services with uncompromised access; (7-1-15)

n. The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense; (7-1-15)

o. The right to be informed in advance of the reason(s) for discontinuance of any service provision, and to be involved in planning for the consequences of that event; (7-1-15)

p. The right to receive an explanation of the reasons for denial of service. (7-1-15)

121. -- 199. (RESERVED)

200. INDIVIDUALIZED TREATMENT PLAN.

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 clinician. A detailed individualized treatment plan will be developed within thirty (30) calendar days from the date of the Department's eligibility determination or date of any court order for services. (7-1-15)

02. Individualized Treatment Plan Requirements. The individualized treatment plan must include the following: (7-1-15)

a. The services deemed necessary to meet the client's mental health needs; (7-1-15)

b. A prioritized list of problems and needs; (7-1-15)

c. Referrals for needed services not provided by the program; (7-1-15)

d. Goals that are based on the client's unique strengths, preferences, and needs; (7-1-15)

e. Specific objectives that relate to the goals written in simple, measurable, attainable, realistic terms with expected achievement dates; (7-1-15)

f. Interventions that describe the kinds of services, frequency of services, activities, supports, and resources the client needs to achieve short-term changes described in the objectives; (7-1-15)

g. The goals and objectives must be individualized and must reflect the choices of the client; (7-1-15)

h. Documentation of who participated in the development of the individualized treatment plan; (7-1-15)

i. The client or legal guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then it must be documented in the client's record the reason the signatures were not obtained, including the reason for the client's refusal to sign. A copy of the treatment plan must be given to the client and legal guardian. (7-1-15)

ii. The treatment plan must be based on the findings of the assessment process. (7-1-15)

i. A specific plan for including the family or significant others; and (7-1-15)

j. Discharge criteria and aftercare plans. (7-1-15)

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the client and updated as needed at least every one hundred twenty (120) days. (7-1-15)

a. The treatment plan review must assess and process the status, applicability, obstacles, and possible solutions of the client's goals, objectives, interventions, and timeframes of the treatment plan. (7-1-15)

b. Treatment plans for medication management only clients are not subject to a one hundred twenty (120) day review. (7-1-15)

04. Treatment Plan Renewals. A new treatment plan will be developed with the client every twelve (12) months. (7-1-15)

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 they receive. The financial responsibility for each service will be based on the individual's ability to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Sections 300 and 400. (7-1-15)

301. ADULT MENTAL HEALTH SERVICES.

The Department is the lead agency in establishing and coordinating community supports, services, and treatment for adults eligible for services under Section 102 of these rules. The following services, as defined under Section 010 of these rules are provided by, or arranged for the delivery of by, the behavioral health center in each region: (7-1-15)

01. Assessment. (7-1-15)

02. Assertive Community Services. (7-1-15)

03. Case Management. (7-1-15)

04. Crisis Intervention. (7-1-15)

05. Medication Management. (7-1-15)

06. Psychiatric Services. (7-1-15)

07. Outpatient Services. (7-1-15)

08. Rehabilitative and Community-Based Services. (7-1-15)

09. Residential Care. (7-1-15)

302. -- 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 *Maresch 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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