

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Behavioral Health

16.07.37 – Children’s Mental Health Services

Who does this rule apply to?

For those seeking children’s mental health services under the Department’s Division of Behavioral Health.

What is the purpose of this rule?

This chapter defines the appeal process, scope of services, eligibility criteria, and application requirements for the provision of children’s mental health services by the Department.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Juvenile Proceedings -

Children’s Mental Health Services:

- [Section 16-2406, Idaho Code](#) – Access to Services
- [Section 16-2423, Idaho Code](#) – Informed Consent to Medication or Other Treatment — Persons Subject to Involuntary or Emergency Treatment
- [Section 16-2433, Idaho Code](#) – Department Rules

Public Assistance and Welfare -

Duties of Director of State Department of Health and Welfare:

- [Section 56-202\(b\), Idaho Code](#) – Duties of the Director of State Dept. of Health & Welfare

Public Assistance Law:

- [Section 56-204A, Idaho Code](#) – Services for Children

Department of Health and Welfare:

- [Section 56-1003, Idaho Code](#) – Powers and Duties of the Director
- [Section 56-1004, Idaho Code](#) – Director – Additional Powers and Duties
- [Section 56-1004A, Idaho Code](#) – Criminal History and Background Checks

Where can I find information on Administrative Appeals?

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.”

How do I request public records?

Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, “Use and Disclosure of Department Records.”

Who do I contact for more information on this rule?

Idaho Department of Health and Welfare
Division of Behavioral Health –
Children’s Mental Health Services
450 West State Street
Boise, ID 83720-0036

Email: BHIDAPAQuestions@dhw.idaho.gov

Webpage: <https://healthandwelfare.idaho.gov/Medical/MentalHealth/ChildrensMentalHealth/tabid/314/Default.aspx>

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16.07.37 – CHILDREN’S MENTAL HEALTH SERVICES

000. LEGAL AUTHORITY.

Under Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code, the Idaho Legislature has delegated to the Department the responsibility to establish and enforce rules and methods of administration needed to provide children's mental health services in accordance with the Children's Mental Health Services Act. (5-8-09)

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 16.07.37, “Children's Mental Health Services.” (5-8-09)

02. **Scope.** This chapter defines the appeal process, scope of services, eligibility criteria, and application requirements for the provision of children's mental health services by the Department. (5-8-09)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

01. **Appeal from a Denial Based on Eligibility Criteria.** Administrative appeals from a denial of children's mental health services based on the eligibility criteria under Section 107 of these rules are governed by the provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (7-1-17)

02. **Grievances and Expedited Hearings.** Grievances and expedited hearings related to non-Medicaid Youth Empowerment Services (YES) will be provided as described in IDAPA 16.05.03 “Rules Governing Contested Case Proceeding and Declaratory Ruling,” Sections 750 and 751. (3-28-18)

03. **Appeal of Decision Based on Clinical Judgment.** All decisions involving clinical judgment, which may include the category of services, the particular provider of services, or the duration of services, are reserved to the 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, D.C., 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. (7-1-17)

005. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. **Compliance with Department Criminal History and Background Check.** 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 defined under 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 criminal history and background check 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 and background 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 AND ABBREVIATIONS A THROUGH E.

For the purposes of these rules, the following terms apply: (5-8-09)

01. **Alternate Care.** Temporary living arrangements outside the family home that may include licensed foster care, residential treatment, and other facilities licensed by the state to provide twenty-four (24) hour care for children in accordance with IDAPA 16.06.02, “Child Care Licensing,” or IDAPA 16.03.14, “Hospitals.” (3-20-20)

02. **Alternate Care Plan.** A component of the treatment plan for children in alternate care. The

alternate care plan contains elements related to the justification of the need for Alternate Care Placement, the provision of treatment while in Alternate Care Placement, the child's alternate care provider, education, immunization, medical and other information important to the day-to-day care of the child. (7-1-17)

03. Area(s) of Concern. A circumstance or circumstances that brought a child and family to the attention of the Department. (5-8-09)

04. Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify the child's mental health issues, the child's strengths, the family's strengths, and the service needs. (5-8-09)

05. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. (7-1-17)

06. Case Management. A change-oriented service provided to families 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. (5-8-09)

07. Case Record. Compilation of all electronic and hard copy documentation relating to a child who is receiving or has received children's mental health services including legal documents, identifying information, and assessments. (5-8-09)

08. Child. An individual who is under the age of eighteen (18) years. (5-8-09)

09. Children's Mental Health Services. The children's mental health services are listed under Section 100 of these rules. These services are provided in response to the mental health needs of children eligible for services under Section 107 of these rules and their families in accordance with the provisions of the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code. (7-1-17)

10. Clinician. Any of the direct service personnel with a Master's degree working in regional Children's Mental Health programs, including master's level social workers, psychologists, counselors, and family therapists. (5-8-09)

11. Crisis Intervention. A set of planned activities for a child eligible for services under Section 107 of these rules designed to reduce the risk of life-threatening harm to self or another person. (7-1-17)

12. Crisis Plan. As part of the treatment plan, the individualized crisis plan is developed to prevent a crisis or prepare for a crisis situation and to keep the child and others safe. The crisis plan may include the child's trigger behaviors, preferred strategies for resolving a crisis, interventions to be avoided, and contact information of community resources and natural supports. (7-1-17)

13. Crisis Response. A service for a child that involves immediate actions taken to assess risk or intervene in an emergency as defined in Section 16-2403(6), Idaho Code. A determination of eligibility under Section 107 of these rules is not required for crisis response. (7-1-17)

14. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational, and family interventions provided on a regularly scheduled, typically daily, basis. (5-8-09)

15. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Behavioral Health Authority under Section 39-3123, Idaho Code. (7-1-17)

16. Desired Result. Behaviorally-specific description of the child's and family's circumstances when the factors that brought the child and family to the Department's attention, either no longer exist or are significantly reduced. (5-8-09)

17. Director. The Director of the Idaho Department of Health and Welfare or their designee. (5-8-09)

18. Emergency. Emergency, as defined in Section 16-2403(6), Idaho Code, means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, their family or others, or poses a serious risk of substantial deterioration in the child's condition that cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in their family home. (5-8-09)

19. Extended Family Member of an Indian Child. As defined by the law or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (5-8-09)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms apply: (5-8-09)

01. Face-to-Face Contact. An interaction between Department staff and another individual. The interaction may occur in-person or by electronic means that includes both audio and visual technology that comply with HIPAA and 42 CFR Part 2. (7-1-17)

02. Family. A family is two (2) or more persons related by blood, marriage, or adoption. (5-8-09)

03. Family Support Services. Assistance provided to a family to assist them in caring for a child eligible for services under Section 107 of these rules. The purpose of family support services is to strengthen adults in their role as parents through the provision of services including: assistance with transportation, family counseling services, training, education, and emergency assistance funds in accordance with IDAPA 16.06.13, "Emergency Assistance for Families and Children." Family support services must be on the treatment plan. (7-1-17)

04. 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 online at <http://aspe.hhs.gov/poverty/>. (5-8-09)

05. Guardian. (5-8-09)

a. As set forth under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of their minor and unemancipated child; or (5-8-09)

b. The Department, an agency, or an individual, other than a parent, who is acting in the place of a parent (in loco parentis) or, has assumed legal responsibility for, legal custody of, or control of a child. (5-8-09)

06. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 USC 1606. (5-8-09)

07. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (5-8-09)

a. A member of an Indian tribe; or (5-8-09)

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (5-8-09)

08. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

09. Indian Child's Tribe. (5-8-09)

a. The Indian tribe in which an Indian child is a member or eligible for membership; or (5-8-09)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1)

tribe, the Indian tribe with which the Indian child has the more significant contacts. (5-8-09)

10. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 USC 1602(c). (5-8-09)

11. Inpatient Services. Mental health and medical services provided to a child admitted to a psychiatric hospital. (5-8-09)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.
For the purposes of these rules, the following terms apply: (5-8-09)

01. Licensed. Facilities or programs that are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing," or hospitals licensed in accordance with IDAPA 16.03.14, "Hospitals." (5-8-09)

02. Medicaid. Idaho's Medical Assistance Program administered under Title XIX of the Social Security Act. (5-8-09)

03. Outpatient Services. Mental health services provided to a child who is not admitted to a psychiatric hospital or in a residential treatment setting. (5-8-09)

04. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "guardian" is not included in the definition of parent. (5-8-09)

05. Placement Agreement. A standardized, written agreement, signed by the Department and a parent or guardian, that outlines specific responsibilities of each party regarding the child's placement in alternate care. (7-1-17)

06. Residential Treatment. A treatment facility licensed as a children's residential care facility that provides twenty-four (24) hour care in a highly-structured setting delivering substitute parental care and mental health services. (5-8-09)

07. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a caregiver different from the child's usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (7-1-17)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms apply: (5-8-09)

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

02. Teens at Risk. Individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. (7-1-17)

03. Teen Early Intervention Specialist. A person with a master's degree in social work, psychology, marriage and family therapy, counseling, chemical dependency, addictive studies, psychiatric nursing, or very closely-related field of study contracted to work with teens at risk. (5-8-09)

04. Title XIX (Medicaid). Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (5-8-09)

05. Treatment Foster Care. A service that provides clinical intervention for children eligible for services under Section 107 of these rules within the private homes of trained, licensed foster families. (7-1-17)

06. Treatment Plan. The individualized treatment plan describes the child's strengths and needs, short and long-term treatment goals, desired outcomes, and the roles, strategies, resources, and timeframes for coordinated implementation of services and supports. The plan is developed with the child, when possible, and the child's parent or guardian. The treatment plan includes a crisis plan and plans for transitioning out of services or to adult services. The treatment plan also includes the alternate care plan, if the child is in alternate care. (7-1-17)

07. Wraparound. Wraparound is a planning process that brings together a team of professionals and citizens working together to support children eligible for services under Section 107 of these rules and their families. Members of the team include the child, family members, representatives of public and private agencies, civic groups, and other community members. The services and supports focus on the strengths of the child and family, are provided in the local community, and are customized to fit the individual culture of the family. (7-1-17)

014. -- 099. (RESERVED)

CHILDREN'S MENTAL HEALTH SERVICES
(Sections 100-199)

100. CHILDREN'S MENTAL HEALTH SERVICES.

The Department is the lead agency in establishing and coordinating community supports, services, and treatment for children eligible for services under Section 107 of these rules and their families. The following services, as defined under Sections 010 through 013 of these rules, are provided by or through Children's Mental Health field offices in each region: (7-1-17)

- 01. Assessment.** (5-8-09)
- 02. Case Management.** (5-8-09)
- 03. Crisis Response.** (5-8-09)
- 04. Day Treatment Services.** (5-8-09)
- 05. Family Support Services.** (5-8-09)
- 06. Inpatient Services.** (5-8-09)
- 07. Outpatient Services.** (5-8-09)
- 08. Residential Treatment.** (5-8-09)
- 09. Respite Care.** (5-8-09)
- 10. Treatment Foster Care.** (5-8-09)
- 11. Wraparound.** (5-8-09)

101. TEENS AT RISK PROGRAM.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

01. Application. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school

districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation. (5-8-09)

02. Contracting Process. (5-8-09)

a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs. (5-8-09)

b. The number of school districts awarded a Teens at Risk program will depend upon the amount of specific funding appropriated by the legislature for this program. (5-8-09)

c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program. (5-8-09)

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

a. Teen arrests, detention, and commitments to state custody; (5-8-09)

b. Teen suicide rates; (5-8-09)

c. Impacts on juvenile mental health and drug courts; (5-8-09)

d. Access to mental health services; and (5-8-09)

e. Academic achievement and school disciplinary actions. (5-8-09)

102. -- 104. (RESERVED)

105. ACCESSING CHILDREN'S MENTAL HEALTH SERVICES.

Children's mental health services may be accessed either through an application for services or through a court order for services. An application for services must be signed by a child's parent or guardian. (5-8-09)

106. MENTAL HEALTH ASSESSMENT.

Once an application has been signed or a court order has been received for children's mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be documented using the Department's Idaho Standard Mental Health Assessment Report at <http://www.healthandwelfare.idaho.gov>. A Department clinician will either complete a mental health assessment, or, at the Department's discretion, accept an assessment completed by another mental health professional. In order to be considered, assessments completed by other mental health professionals must have occurred within ninety (90) days prior to the date of application or court order. The Department clinician will gather additional information, as needed, in order to complete the assessment process. (5-8-09)

107. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of children 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. (4-7-11)

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

- a.** Be under eighteen (18) years of age; (5-8-09)
- b.** Reside within the state of Idaho; (5-8-09)
- c.** Have a DSM-5 mental health diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible mental health diagnosis, although one (1) or more of these conditions may co-exist with an eligible mental health diagnosis; and (7-1-19)
- d.** Have a substantial functional impairment as assessed by using the Department's approved tool. (7-1-17)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code. Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. Parents or guardians retain custody of the child. (7-1-17)

04. Ineligible Conditions. A child who does not meet the requirements under Subsections 107.02 or 107.03 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. (7-1-17)

108. -- 109. (RESERVED)

110. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. The Department will determine the child's eligibility for children's mental health services, in accordance with Section 107 of these rules, within thirty (30) calendar days of receipt of a signed application for services. Within five (5) working days of the determination of eligibility, the Department will send written notification to the child's parent or guardian of the eligibility determination. The written notice will include: (7-1-17)

- a.** The child'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. Parental Rights. If the Department determines that an applicant is eligible for children's mental health services through the Department, the Department clinician must inform the child's parent or guardian that they have the right to reject the services offered by the Department, unless imposed by court order. (5-8-09)

03. Other Information that Must be Provided to the Parent. The clinician must also inform the parent that fees may be incurred for certain services, in accordance with IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and that a parent has financial responsibility for the child. (5-8-09)

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

111. -- 114. (RESERVED)

115. TREATMENT PLAN.

A treatment plan will be developed by the Department, a parent or guardian, and the child, if appropriate, and may include the service provider or service providers. This plan will be specific, measurable, and realistic in the identification of the goal(s), relevant areas of concern, and desired results. (7-1-17)

01. Development of Treatment Plan. A treatment plan will be completed within fifteen (15) days of the date the child was determined eligible for children's mental health services. The parent or guardian must be given the opportunity to participate in the development of the treatment plan and sign it. The parent or 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, the reason the signatures were not obtained must be documented in the record, including the reason for the parent's or guardian's refusal to sign. If the services are court-ordered and the parent or guardian refuses to sign the plan, the refusal must also be documented on the plan. If the services are voluntary and the parent or guardian refuses to sign the plan, the Department may close the case. (7-1-17)

02. Annual Development of Treatment Plan. The Department will develop a plan at least annually. The parent or guardian will be given the opportunity to participate in the annual development of the treatment plan and to sign it. (7-1-17)

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the family at least once every one hundred twenty (120) days. (7-1-17)

04. Goals and Tasks. Treatment plans must include a long-term goal that identifies specific behavior changes, have measurable desired results, and have specific tasks that identify by whom, how, and when the tasks will be completed. (7-1-17)

116. OUTCOMES FOR CHILDREN'S MENTAL HEALTH SERVICES.

Outcomes for children's mental health services are measured through the administration of a satisfaction survey and the Department-approved standardized functional assessment tool. (7-1-17)

117. CASE RECORDS.

01. Electronic and Physical Files. The Department must maintain an electronic file and a physical file containing information on each child receiving children's mental health services. The physical file may include non-electronic documentation such as originals or copies of all court orders, birth certificates, social security cards, and assessment information that originates outside the Department. (7-1-17)

02. Storage of Records. All physical case records must be stored in a secure file storage area away from public access, and retained not less than five (5) years after the case is closed, after which they may be destroyed. (7-1-17)

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (7-1-17)

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (7-1-17)

118. USE OF PUBLIC FUNDS AND BENEFITS.

Public funds and benefits will be used to provide services for children eligible for services under Section 107 of these rules and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, the Department will arrange services to minimize the need for institutional or alternate care placement. Services will be individually planned with the family to meet the unique needs of each child and family. The Department will not require a parent or guardian to relinquish custody of the child in order to receive Department-funded services. (7-1-17)

119. FINANCIAL RESPONSIBILITY OF PARENT(S).

Parent(s) of a child eligible for services under Section 107 of these rules who is receiving outpatient services either directly from the Department, or through Department contracts with private providers, are financially responsible for services provided to their child and to their family, including court-ordered children's mental health services. The financial responsibility for each service will be in accordance with the ability of parent(s) to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." Parent(s) will not incur a financial obligation for services provided to their child through a Teens at Risk program. (7-1-17)

120. SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.

The fee charged to parents for outpatient children's mental health services is determined using the sliding fee schedule under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 300. (5-8-09)

121. FEE DETERMINATION FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.

Prior to the delivery of outpatient services, a "Fee Determination" form must be completed by a child's parent when requesting children's mental health services. The fee determination process includes the considerations found under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 400. (5-8-09)

122. -- 199. (RESERVED)

ALTERNATE CARE PLACEMENT
(Sections 200-299)

200. AUTHORITY FOR ALTERNATE CARE PLACEMENT.

The Department may place a child into alternate care under either of the following conditions in Subsection 200.01 or 200.02 of this rule: (7-1-17)

01. Court Order. The Department may place a child into alternate care when the Department has been ordered by the Court to provide alternate care for a child. (3-20-20)

a. A placement agreement must be developed by the Department and the parent or guardian prior to the child's placement in alternate care. (3-20-20)

b. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks, and task responsibilities. (3-20-20)

c. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. If notice is given by the parent or guardian, the Department will notify the court. (3-20-20)

02. Voluntary Placement. The Department may place a child into alternate care with the Department when a parent or guardian is no longer able to maintain a child eligible for services under Section 107 of these rules in the child's home and the Department determines that the child would benefit from alternate care and treatment services. (3-20-20)

a. A treatment plan, alternate care plan, and a placement agreement must be developed by the Department and the parent or guardian prior to the child's placement in alternate care. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks and task responsibilities. (3-20-20)

b. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. (3-20-20)

201. PROTECTIONS FOR CHILDREN IN ALTERNATE CARE.

01. Statutory Requirements. The Department must arrange alternate care in accordance with the protections established in: (5-8-09)

a. The Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code; (5-8-09)

b. The Child Protective Act, Title 16, Chapter 16, Idaho Code; and (5-8-09)

c. The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

02. Requirement for Licensure. A child that is placed in alternate care must be placed in a licensed foster home, licensed residential care facility, or in a licensed hospital. (5-8-09)

03. Out-of-State Placement. Placement of a child in an alternate care setting outside the state of Idaho requires that the Department comply with the Interstate Compact on the Placement of Children, in accordance with Section 16-2102, Idaho Code. (5-8-09)

04. Least Restrictive Setting. Whenever possible, the Department will arrange placement: (7-1-17)

a. In the least restrictive setting available that will meet the child's mental health treatment needs; and (7-1-17)

b. That is in close proximity to the parent or guardian. (7-1-17)

c. If the placement does not meet the requirements of Subsections 201.04.a. and 201.04.b. of this rule, the Department will provide written justification to the child's parent or guardian by way of the Alternate Care Plan that the placement is in the best interests of the child. (7-1-17)

05. Visitation for Child's Parent or Guardian. Visitation arrangements will be documented in the alternate care plan. (7-1-17)

06. Notification to Parents or Guardians of Change in Placement. (7-1-17)

a. The Department will provide written notification to the child's parent or guardian no later than seven (7) days after a child's change of placement. (7-1-17)

b. If an Indian child under jurisdiction of the court is relocated to another alternate care setting, similar notice must be sent to the child's Indian custodian, and the child's tribe. Wherever these rules require notice to the parent or custodian and tribe of an Indian child, notice must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, under 25 CFR Section 23.11, copies of such notices must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice of the proceeding must be given to the Secretary, who will provide notice to the parent or Indian custodian and tribe. (7-1-17)

202. (RESERVED)

203. DATE A CHILD ENTERED ALTERNATE CARE.

A child is considered to have entered alternate care on the date the child is actually placed in an alternate care setting. All alternate care benefits, eligibility determinations, and required reviews are based on the date the child entered alternate care. (5-8-09)

204. TITLE XIX ELIGIBILITY.

Children placed in alternate care through the Department are eligible for Title XIX, if they meet the eligibility requirements as defined in IDAPA 16.06.01, "Child and Family Services." Application for these programs will be made by Department clinicians on the forms and in the manner prescribed by the Department's Division of Family and Community Services. (7-1-17)

205. ALTERNATE CARE LICENSURE.

All private homes and facilities in Idaho providing alternate care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed, approved, or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. (5-8-09)

206. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and include the following: (5-8-09)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's parent or guardian, the child (when appropriate), the clinician and the alternate care provider. (5-8-09)

02. Information for Alternate Care Provider. The Department and the child's parent or guardian must inform the alternate care provider of the alternate care provider's roles and responsibilities in meeting the needs of the child and provide the following information to the alternate care provider: (5-8-09)

a. Any medical, health, and dental needs of the child including the names and addresses of the child's doctor, dentist, and other health providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (5-8-09)

b. The child's current functioning and behaviors; (5-8-09)

c. The child's history, past experiences, and reasons for placement into alternate care; (5-8-09)

d. The child's cultural and racial identity; (5-8-09)

e. Any educational, developmental, or special needs of the child; (5-8-09)

f. Names and addresses of the child's current or last school attended, including homeschool or alternate school, if applicable; (5-8-09)

g. The child's interests and talents; (5-8-09)

h. The child's attachment to current caretakers; (5-8-09)

i. The individualized and unique needs of the child; (5-8-09)

j. Procedures to follow in case of emergency; and (5-8-09)

k. Any additional information that may be required to meet the needs of the child. (5-8-09)

03. Consent for Medical Care. A parent or guardian must sign a Departmental form of consent for medical care and keep the clinician advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the case record. (5-8-09)

04. Financial Arrangements. The Department is responsible for explaining the financial and payment arrangements to the alternate care provider and must complete the documentation required for payment to the alternate care provider. (7-1-17)

05. Contact Requirements. The child's parent or guardian, the clinician, the alternate care provider,

and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits between the child and the family and the clinician or their designee. (5-8-09)

a. Face-to-face contact between the child and the clinician must occur at least monthly. An in-person visit must occur within the first thirty (30) days of placement and then the in-person visits must occur at a minimum of quarterly thereafter. (7-1-17)

b. Face-to-face contact between the child's parent or guardian and the clinician must occur at least monthly. (5-8-09)

c. Face-to-face contact between the alternate care provider and the clinician must occur at least monthly. (7-1-17)

d. Frequent and regular contact between the child, the child's parent or guardian, and other family members will be encouraged and facilitated unless it is specifically determined by the Department not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (5-8-09)

e. When a child is placed in alternate care in another state, a Department clinician must maintain at least monthly contact with the child, the child's family, and the alternate care provider with whom they have been placed as long as the state of Idaho has the placement responsibility for the child, in accordance with Section 200 of these rules. The supervising agency in the state where the child is living will be requested to maintain monthly, face-to-face contact with the child and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. (7-1-17)

06. Transition Planning. Planning for transition from alternate care will be developed with all concerned parties. Transition planning will be initiated at the time of placement and completed prior to the child's return home or to another living arrangement. A written Transition Plan is part of the Alternate Care Plan and the Treatment Plan. As part of transition planning, efforts are coordinated by the Department and the parents or guardians to expedite access to community and Department services. (7-1-17)

207. -- 221. (RESERVED)

222. ALTERNATE CARE PLANNING.

Alternate care planning is mandated by the provisions of Sections 471(a)(15) and 475, P.L. 96-272. (5-8-09)

01. Alternate Care Plan Required. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (5-8-09)

a. The purpose of the plan is to facilitate the provision of mental health treatment services and the safe return of the child to their own home as expeditiously as possible, or to make other permanent arrangements for the child if such return is not feasible. (5-8-09)

b. The alternate care plan must be included as part of the treatment plan. (5-8-09)

02. Written Alternate Care Plan. The Department must have completed a written alternate care plan within thirty (30) days after a child has been placed in alternate care. (5-8-09)

a. A parent or guardian and the child, to the extent possible, are to be involved in planning, selecting, and arranging the alternate care placement and any subsequent changes in placement. (5-8-09)

b. The alternate care plan must include documentation that a parent or guardian has been provided written notification of: (5-8-09)

i. Visitation arrangements made with the alternate care provider, including any changes in their visitation schedule; (5-8-09)

ii. Any change of placement, when the child is relocated to another alternate care or institutional setting as soon as possible, but no later than seven (7) days after placement; and (5-8-09)

iii. Their right to discuss any changes and to seek recourse if they disagree with any changes in visitation or other alternate care arrangements. (5-8-09)

c. All parties involved in developing the alternate care plan, including the alternate care provider, parent or guardian, and the child, if of appropriate developmental age: (5-8-09)

i. Will be asked by the Department to sign the alternate care plan that includes a statement indicating that they have read and understood the alternate care plan; and (5-8-09)

ii. Will receive a copy of the alternate care plan from the Department. (5-8-09)

223. -- 235. (RESERVED)

236. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.

In accordance with Sections 56-203B and 16-2406, Idaho Code, parent(s) are responsible for costs associated with the care of their child in alternate care. (5-8-09)

01. Notice of Parental Responsibility. The Department will provide the parent(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (5-8-09)

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental, and educational costs. (7-1-19)

237. SUPPORT AGREEMENTS AND SUPPORT ORDERS.

01. Support Agreement for Voluntary Placement. If the placement is voluntary, a parent must sign a support agreement that specifies the amount of support to be paid to the Department, when it is to be paid, and the address to which it is to be paid. (5-8-09)

02. Support Order for Payment of Involuntary Placement Costs. In the case of a court-ordered placement, if no support agreement has been reached with a parent prior to the court hearing, the Department may request the Court hold a support hearing to establish a support order for payment of involuntary placement costs. (5-8-09)

238. -- 239. (RESERVED)

240. INSURANCE COVERAGE.

The parent or guardian must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage is available for the child, the parent must acquire and maintain such insurance. (5-8-09)

241. MEDICAL CARD FOR CHILDREN IN ALTERNATE CARE.

The Department will issue a medical card to cover medical expenses for each child placed in alternate care. (5-8-09)

242. -- 243. (RESERVED)

244. MEDICAL EMERGENCIES.

In case of serious illness, the alternate care provider must immediately seek medical attention for the child and notify the Department as soon as possible. A parent or guardian, the court in an emergency, or the Department, if it is the guardian of the child, has the authority to consent to major medical care or hospitalization in accordance with Section

39-4504, Idaho Code.

(5-8-09)

245. DENTAL CARE.

Each child age three (3) years or older, who is placed in alternate care, must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (5-8-09)

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment will be submitted to the state Medicaid dental consultant. (5-8-09)

02. Emergencies. Emergency dental services will be provided for children in alternate care and paid for by the Department, if there are no other financial resources available. (5-8-09)

246. COSTS OF PRESCRIPTION DRUGS.

The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacies. (5-8-09)

247. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.

Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (5-8-09)

248. -- 250. (RESERVED)

251. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.

Only a parent or guardian of a child in alternate care may authorize drivers' training, provide payment, and sign for drivers' licenses and permits. (5-8-09)

252. -- 282. (RESERVED)

283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers are paid according to IDAPA 16.06.01, "Child and Family Services." (3-28-18)

01. Gifts. Additional payments for Christmas gifts and birthday gifts will be paid in the appropriate months. (3-28-18)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the foster parents, based upon the Department's determination of the child's needs. (5-8-09)

284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid according to IDAPA 16.06.01, "Child and Family Services." The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. (3-28-18)

01. Lowest Level of Need. A child requiring a mild degree of care for documented conditions receives the lowest level of additional payments for the following: (3-28-18)

a. Chronic medical problems; (5-8-09)

b. Frequent, time-consuming transportation needs; (5-8-09)

- c. Behaviors requiring extra supervision and control; and (5-8-09)
 - d. Need for preparation for independent living. (5-8-09)
 - 02. **Moderate Level of Need.** A child requiring a moderate degree of care for documented conditions receives the moderate level of additional payments for the following: (3-28-18)
 - a. Ongoing major medical problems; (5-8-09)
 - b. Behaviors that require immediate action or control; and (5-8-09)
 - c. Alcohol or other substance use disorder. (5-8-09)
 - 03. **Highest Level of Need.** A child requiring an extraordinary degree of care for documented conditions receives the highest level of additional payments for the following: (3-28-18)
 - a. Serious emotional or behavioral disorder that requires continuous supervision; (5-8-09)
 - b. Severe developmental disability; and (5-8-09)
 - c. Severe physical disability such as quadriplegia. (5-8-09)
 - 04. **Reportable Income.** Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)

285. -- 599. (RESERVED)

600. TREATMENT FOSTER CARE.

A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children eligible for services under Section 107 of these rules is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgment of the Department. (7-1-17)

- 01. **Qualifications.** Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-29-10)
 - a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; (5-8-09)
 - b. Complete Department-approved treatment foster care initial training; and (5-8-09)
 - c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-29-10)
 - i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-29-10)
 - ii. Demonstrated cooperation and a positive working relationship with families and providers of mental health services. (3-29-10)

02. **Continuing Education.** Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed

between the treatment foster parents and the Department. (3-29-10)

03. Availability. At least one (1) treatment foster parent in each treatment family home must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-29-10)

04. Payment. The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month per child, which includes the monthly payment rate specified in Sections 283 and 284 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.06 of this rule. (7-1-17)

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (5-8-09)

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible for each child in their care. This plan is incorporated as part of the treatment plan identified in Section 115 of these rules. (7-1-17)

601. -- 699. (RESERVED)

700. RESIDENTIAL CARE FACILITIES.

Residential care facilities provide a more intensive setting than treatment foster care. Residential care facilities in Idaho are licensed under IDAPA 16.06.02, "Child Care Licensing" to provide residential care for children and staffed by employees who cover assigned shifts. Children placed in residential care facilities receive services that may include the following: assessment, supervision, treatment plan development and implementation, documentation, behaviorally focused skill building, service coordination or clinical case management, consultation, psychotherapy, psychiatric care, and twenty-four (24) hour crisis intervention. Placement into a residential care facility for children eligible for services under Section 107 of these rules is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (7-1-17)

01. Prior Authorization. Prior authorization must be obtained from an authorized representative in the Department's Division of Behavioral Health for placement of a child in a residential care facility where the Division of Behavioral Health is making full or partial payment. (5-8-09)

02. Payment. When care is purchased from private providers, payment will be made in accordance with a contract authorized by the Department, based on the needs of each child being placed and the services to be provided. (5-8-09)

701. -- 799. (RESERVED)

800. SIX MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENTS.

A review is to occur at the end of a six (6) month period for any child in an alternate care placement. The Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the treatment plan focuses on the goals of safety, permanency, effectiveness of treatment, and well-being of the child. The Department may request the court hold a review hearing for the child in accordance with Section 16-2407(3), Idaho Code. (7-1-17)

01. Notice of Six Month Review. The parent or guardian, foster parent of a child, or relative providing care for the child is to be provided with notice of their right to be heard in the six (6) month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice. (7-1-17)

02. Procedure in the Six Month Review. The parties who received notice will be given the opportunity to participate in the case review. (5-8-09)

03. Members of Six Month Review Panel. The six (6) month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent or guardian. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from an authorized representative in the Department's Division of Behavioral Health, to enable them to understand the review process and their roles as participants. (5-8-09)

04. Considerations in Six Month Review. Whether conducted by the court in a review hearing or a Department review panel, under state law, federal law and regulation, each of the following must be addressed in a six (6) month review: (5-8-09)

- a.** Determine the extent of compliance with the treatment plan; (5-8-09)
- b.** Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-8-09)
- c.** Review compliance with the Indian Child Welfare Act, when applicable; (5-8-09)
- d.** Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-8-09)
- e.** Project a date by which the child may be returned and safely maintained at home or placed for adoption, guardianship, or other permanent placement. (5-8-09)

05. Recommendations and Conclusions of Six Month Review Panel. Following the six (6) month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. (5-8-09)

801. -- 999. (RESERVED)

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