IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

October 7, 1998
Volume 98-10

IDAPA 01 - IDAHO STATE BOARD OF ACCOUNTANCY

01.01.01 - RULES GOVERNING THE IDAHO BOARD OF ACCOUNTANCY
Docket No. 01-0101-9801
Notice of Proposed Rules 21

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.01.04 - ENVIRONMENTAL AUDIT PROTECTION RULES
Docket No. 02-0104-9801
Notice of Pending Rules 25

02.02.14 - RULES FOR WEIGHTS AND MEASURES
Docket No. 02-0214-9801
Notice of Temporary and Proposed Rule 26

02.03.03 - RULES GOVERNING PESTICIDE USE AND APPLICATION
Docket No. 02-0303-9801
Notice of Pending Rules 28

Docket No. 02-0303-9802
Notice of Proposed Rule 29

02.04.03 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY
Docket No. 02-0403-9801
Notice of Pending Rules 38

02.06.05 - RULES CONCERNING DISEASES OF HOPS (Humulus lupulus)
Docket No. 02-0605-9801
Notice of Pending Rules 39

02.06.29 - RULES CONCERNING NON-NATIVE PHYTOPHAGOUS SNAILS
Docket No. 02-0629-9801
Notice of Pending Rules 40

02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

Docket No. 02-0801-9801
Notice of Pending Rules 41

Docket No. 02-0801-9802
Notice of Pending Rules 42

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
Docket No. 07-0104-9801
Notice of Proposed Rule 43

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
Docket No. 07-0205-9801
Notice of Proposed Rule 46

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION
Docket No. 07-0313-9801
Notice of Vacation of Proposed Rule-making 50

Docket No. 07-0313-9801
Notice of Rescision of Temporary Rule 51

Docket No. 07-0313-9802
Notice of Temporary and Proposed Rule........ 52

Docket No. 07-0313-9803
Notice of Proposed Rule 57

IDAPA 09 - DEPARTMENT OF LABOR

09.05.01 - RULES GOVERNING WAGE COLLECTION PROCEEDINGS
Docket No. 09-0501-9801
Notice of Pending Rule........ 58

09.05.02 - RULES GOVERNING PRATICE AND PROCEDURE BEFORE THE WAGE AND HOUR SECTION
Docket No. 09-0502-9801
Notice of Pending Rule........ 59

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT
Docket No. 12-0108-9801

Notice of Temporary and Proposed Rule 60

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT
Docket No. 12-0110-9801
Notice of Temporary and Proposed Rule 66

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
13.01.04 - RULES GOVERNING LICENSING
Docket No. 13-0104-9805
Notice of Proposed Proclamation and Public Hearing 75

13.01.10 - IMPORTATION, RELEASE, SALE, OR SALVAGE OF WILDLIFE
Docket No. 13-0110-9801
Notice of Proposed Rule 76

13.01.20 - RULES GOVERNING SELECTION OF FISH AND GAME LICENSE VENDORS
Docket No. 13-0120-9801
Notice of Temporary and Proposed Rules 91

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM IDAHO COMMISSION ON AGING
Docket No. 15-0101-9801
Notice of Pending Rule and Amendment To Temporary Rule 93

15.01.02 - RULES GOVERNING ADULT PROTECTION SERVICES IDAHO COMMISSION ON AGING
Docket No. 15-0102-9801
Notice of Pending Rule and Amendment To Temporary Rule 95

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES
Docket No. 16-0203-9801
Notice of Proposed Rule 98

16.02.28 - REGISTRATION OF FREE MEDICAL CLINICS
Docket No. 16-0228-9801
Notice of Temporary and Proposed Rules 107

16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID

FOR FAMILIES AND CHILDREN
Docket No. 16-0301-9802
Notice of Temporary and Proposed Rule.. 110

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES
Docket No. 16-0303-9801
Notice of Temporary and Proposed Rule.. 113

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID
TO THE AGED BLIND AND DISABLED (AABD)
Docket No. 16-0305-9801
Notice of Temporary and Proposed Rule.. 117

Docket No. 16-0305-9802
Notice of Temporary and Proposed Rule.. 118

16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE
Docket No. 16-0306-9801
Notice of Temporary and Proposed Rule.. 185

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE
FOR FAMILIES IN IDAHO (TAFI)
Docket No. 16-0308-9801
Notice of Pending Rule 199

Docket No. 16-0308-9802
Notice of Temporary and Proposed Rule.. 200

Docket No. 16-0308-9803
Notice of Proposed Rule 205

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
Docket No. 16-0309-9801
Notice of Proposed Rule 206

Docket No. 16-0309-9807
Notice of Temporary and Proposed Rule.. 223

Docket No. 16-0309-9808
Notice of Temporary and Proposed Rule.. 234

Docket No. 16-0309-9809
Notice of Public Hearing.......... 250

Docket No. 16-0309-9810
Notice of Temporary and Proposed Rule.......... 251

16.03.20 - RULES GOVERNING ELECTRONIC BENEFITS TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS
Docket No. 16-0320-9801
Notice of Temporary and Proposed Rule.......... 257

16.04.02 - IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES
Docket No. 16-0402-9801
Notice of Pending Rule and Amendment To Temporary Rule.......... 260

16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS
Docket No. 16-0501-9802
Notice of Pending Rule.......... 262

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM FOR CHILD CARE
Docket No. 16-0612-9701
Notice of Vacation of Rulemaking.......... 263

Docket No. 16-0612-9701
Notice of Recision of Temporary Rulemaking.......... 264

Docket No. 16-0612-9801
Notice of Temporary and Proposed Rule.......... 265

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
Docket No. 16-0612-9802
Notice of Temporary and Proposed Rule.......... 266

Subjects Affected Index

IDAPA 01 - IDAHO STATE BOARD OF ACCOUNTANCY

01.01.01 - RULES GOVERNING THE IDAHO BOARD OF ACCOUNTANCY
Docket No. 01-0101-9801
605. Scheduling Of The Quality Review (Rule 605)............ 21
607. Reporting To The Board (Rule 607)............ 22
608. Administering Organizations (Rule 608). 23
609. Fee For Approval Of Administering Organizations (Rule 609)............ 23
611. Qroc Duties And Responsibilities (Rule 611)............ 23
612. Additional Qroc Oversight Procedures For Non-secps Administering Organizations (Rule 612). .. 24
614. (Reserved). 24
619. Penalty For Failure To Comply (Rule 619)............ 24
620. -- 699. (Reserved)............ 24

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES
Docket No. 02-0214-9801
050. Checking, Testing And Examining Of Devices, Packages And Labels............ 27

02.03.03 - RULES GOVERNING PESTICIDE USE AND APPLICATION
Docket No. 02-0303-9802
100. Licensing Professional Applicators And Pesticide Dealers............ 30
101. Registration And Licensing Requirements For Use Of The Lpc. 34
102. Restrictions And Penalties. 37
103. -- 149. (Reserved)............ 37

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
Docket No. 07-0104-9801
014. Electrical Specialties Requiring A Special License. 43

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
Docket No. 07-0205-9801
019. Water Pump Plumbing Specialty License. 48
020. -- 999. (Reserved)............ 49

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION
Docket No. 07-0313-9802
000. Legal Authority............ 53
001. Title And Scope............ 53
002. Written Interpretations............ 53
003. Administrative Appeals. 53
004. Definitions. 53
005. -- 010. (Reserved)............ 53
011. Rehabilitation Requirements............ 54
012. Rehabilitation Form And Checklist -- Compliance Certificate. 55

Docket No. 07-0313-9803
013. Administrative Fees. 57

014. -- 999. (Reserved). 57

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT
Docket No. 12-0108-9801
002. Written Interpretations--agency Access--filings (Rule 2). 61
040. Examination Requirements (Rule 40). 61
080. Notification Of Outside Business Activities--selling Away (Rule 80). 61
081. -- 099. (Reserved). 62
140. -- 149. (Reserved). 62
180. -- 209. (Reserved). 63
231. Adoption Of Nasaa Statement Of Policy (Rule 231). 63
232. -- 249. (Reserved). 64
280. Recognized Securities Manuals (Rule 280). 64
340. Renewal Of Registrations Of Broker-dealers, Salesmen, Investment Advisers Or Investment Adviser Representatives; Notice Of Name Changes (Rule 340). 65

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT
Docket No. 12-0110-9801
000. Legal Authority (Rule 0). 67
001. Title And Scope (Rule 1). 67
002. Written Interpretations-agency Access-filings (Rule 2). 67
003. Administrative Appeals (Rule 3). 67
004. Public Records Act Compliance (Rule 4). 67
005. -- 009. (Reserved). 67
010. Trust Account (Rule 10). 67
011. -- 029. (Reserved). 70
030. Conversation Log - 3 (Rule 30). 70
031. -- 039. (Reserved). 71
040. Deceptive Advertising (Rule 40). 71
041. -- 049. (Reserved). 72
050. Written Disclosures-good Faith Estimate And Truth-in-lending-disclosure (Rule 50). 72
051. -- 059. (Reserved). 73
060. Prohibited Practices (Rule 60). 73
061. -- 069. (Reserved). 74
070. Financial Condition (Rule 70). 74
071. -- 089. (Reserved). 74
090. Borrowers Unable To Obtain Loans (Rule 90). 74
091. -- 099. (Reserved). 74
100. Exempt Entities (Rule 100). 74
101. -- 999. (Reserved). 74

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.10 - IMPORTATION, RELEASE, SALE, OR SALVAGE OF WILDLIFE
Docket No. 13-0110-9801
000. Legal Authority. 77
001. Title And Scope. 77
002. Written Interpretations. 77
003. Administrative Appeal. 77
004. -- 009. (Reserved). 77
010. Definitions. 77

100. Permits. Requirements For Import, Export, Transport And Sale.. 78
101. Import Procedure. 79
102. -- 199. (Reserved).. 80
200. Non-commercial Possession And Confinement Of Wildlife Requirements, Private Parks And Commercial Wildlife Farms.. 80
400. Commercial Wildlife Facilities. 84
700. List Of Species Approved For Importation Into Idaho. 89
701. -- 999. (Reserved).. 90

13.01.20 - RULES GOVERNING SELECTION OF FISH AND GAME LICENSE VENDORS
Docket No. 13-0120-9801
105. -- 999. (Reserved).. 92

IDAPA 15 - OFFICE OF THE GOVERNOR

15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM IDAHO COMMISSION ON AGING
Docket No. 15-0101-9801
026. Fees And Client Contributions. 94

15.01.02 - RULES GOVERNING ADULT PROTECTION SERVICES IDAHO COMMISSION ON AGING
Docket No. 15-0102-9801
031. Investigative Requirements.. 96

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES
Docket No. 16-0203-9801
004. Definitions And Abbreviations. 98
100. Statewide Ems Advisory Committee. 100
302. -- 319. (Reserved).. 102
320. Designation Of Clinical Capability. 102
321. -- 324. (Reserved).. 102
325. Prehospital Advanced Life Support Standards. 102
326. -- 329. (Reserved).. 103
330. Advanced Life Support Transfer Standards. 103
331. -- 334. (Reserved).. 104
335. Critical Care Transfer Service Standards... 104
336. -- 339. (Reserved).. 105
340. ALS Designation Categories. 105
341. -- 399. (Reserved).. 105
515. Administrative License Action. 105

16.02.28 - REGISTRATION OF FREE MEDICAL CLINICS
Docket No. 16-0228-9801
000. Legal Authority. 108
001. Title And Scope.. 108
002. Written Interpretations.. 108
003. Administrative Appeals. 108
004. Definitions. 108
005. -- 051. (Reserved).. 108
052. Registration Of Free Medical Clinics.. 108
053. Maintenance Of Registration. 109
054. Proof Of Compliance.. 109
055. Revocation. 109

056. -- 995. (Reserved). 109
996. Confidentiality. 109
997. -- 999. (Reserved). 109

16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN
Docket No. 16-0301-9802
208. -- 213. (Reserved). 111
214. Social Security Number. 111
215. Group Health Plan Enrollment. 111
216. Assignment Of Rights To Medical Support And Third Party Liability. 111
217. Cooperation With Child Support. 111
220. Cooperation With The Quality Control Process. 111
413. Low Income Families With Children. 111

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES
Docket No. 16-0303-9801
202. Eligibility For Medicaid. 114
204. Distribution Of Support Payments. 114
604. Good Cause Determination In License Suspension Proceedings. 115
605. Release Of Liens. 115
606. Obligor's Rights. 116
607. -- 999. (Reserved). 116

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED BLIND AND DISABLED (AABD)
Docket No. 16-0305-9802
000. Legal Authority. 119
001. Title And Scope. 119
002. Written Interpretations. 119
003. Administrative Appeals. 119
004. Rule Availability. 119
005. Definitions. 119
006. Abbreviations. 120
007. -- 049. (Reserved). 121
050. Application For Assistance. 121
051. Effective Date. 121
052. Personal Interview. 122
053. -- 069. (Reserved). 122
070. Time Limits. 122
071. Death Of Applicant. 122
072. Required Verification. 122
073. -- 089. (Reserved). 122
090. Applications For Medicaid. 122
091. Out Of State Applicants. 122
092. Concurrent Benefit Prohibition. 122
093. -- 099. (Reserved). 122
100. Residency. 122
101. Temporary Absence. 123
102. -- 104. Reserved. 123
105. Social Security Number. 123
106. Citizenship And Legal Non-citizen Requirement. 123
107. Institutional Status. 124
108. AABD Eligibility In Ineligible Institutions. 125

109. Conditions For Temporary AABD In Institutions. 125
110. -- 128. (Reserved). 126
129. Participant's Guardian For AABD Cash. 126
130. Estate Not In Probate. 126
131. Estate In Probate. 126
132. -- 154. (Reserved). 126
155. AABD For The Aged. 126
156. AABD For The Disabled. 126
157. -- 165. (Reserved). 127
166. Fugitive Felon Or Probation Or Parole Violator. 127
167. Fraudulent Misrepresentation Of Residency. 127
168. -- 199. (Reserved). 127
200. Resources Defined. 127
201. Resource Limit. 127
202. Change In Value Of Resources. 127
203. Resources And Change In Marital Status. 127
204. Factors Making Property A Resource. 127
205. Counting Resources And Income. 127
206. Types Of Resources. 127
207. Equity Value Of Resources. 127
208. Shared Ownership Rule. 128
209. -- 214. (Reserved). 128
215. Deeming Resources. 128
216. Household For Resource Computations. 128
217. Unknown Resources. 128
218. -- 221. (Reserved). 129
222. Vehicles. 129
223. Burial Funds Excluded From Resource Limit. 129
224. Burial Space Or Plot Exclusion. 129
225. -- 231. (Reserved). 130
232. Household Goods Definition. 130
233. Personal Effects Definition. 130
234. Personal Property Definition. 130
235. Fully Excluded Household Goods And Personal Effects. 130
236. Excluded Household Goods And Personal Effects. 130
237. Real Property Definition. 130
238. Home Excluded As Resource. 130
239. Sale Of Excluded Home And Replacement. 130
240. Replacement Of Excluded Resources. 130
241. Undue Hardship Exclusion From Sale Of Jointly-owned Real Property. 131
242. Trust Or Restricted Indian Lands Excluded. 131
243. Resources Associated With Property. 131
244. Resources Essential For Self-support Excluded. 131
245. Resources Set Aside As Part Of A Plan For Achieving Self-support (Pass) Excluded. 131
246. -- 254. (Reserved). 131
255. Retroactive SSI And AABD Benefits. 131
256. German Reparations Payments. 132
257. Disaster Assistance. 132
258. Cash To Purchase Medical Or Social Services. 132
259. Agent Orange Settlement Payments. 132
260. Alaska Native Claims Settlement Act. 132
261. Stock In Alaska Regional Or Village Corporations. 132

262. Victims' Compensation Payments. 132
263. Austrian Social Insurance Payments. 132
264. Radiation Exposure Compensation Act Payments. 132
265. Tax Advances And Refunds Related To Earned Income Tax Credits. 132
266. Identifying Excluded Funds Commingled With Funds Not Excluded. 132
267. Dedicated Account For Ssi Participant. 132
268. Support And Maintenance Assistance (Home Energy Assistance). 132
269. Netherlands Wuv Payments. 133
270. Japanese-american And Aleutian Restitution Payments. 133
271. Va Monetary Allowances To A Child Born With Spina Bifida. 133
272. Walker V. Bayer Payments. 133
273. -- 285. Reserved. 133
286. Trusts. 133
287. Retirement Funds. 133
288. Inheritance. 133
289. Life Insurance. 133
290. Conservatorship. 133
291. Conditional Benefits. 133
292. -- 299. (Reserved). 134
300. Income Definition. 134
301. Application For Potential Benefits. 134
302. Relationship Of Income To Resources. 134
303. When Income Is Counted. 134
304. Prospective Eligibility. 134
305. Projecting Monthly Income. 135
306. Criteria For Projecting Monthly Income. 135
307. -- 309. (Reserved). 136
310. Adoption Assistance Under Title Iv-b Or Title Xx. 136
311. Agent Orange Settlement Fund Payments. 136
312. Alaska Native Claims Settlement Act. 136
313. Assistance Based On Need (ABON). 136
314. Austrian Social Insurance Payments. 136
315. Bureau Of Indian Affairs (BIA) Foster Care. 137
316. Blind Or Disabled Student Child Earned Income. 137
317. "Buy-in" Reimbursement. 137
318. Commodities, Food Stamps And Food Programs. 137
319. Contributions For Adult Residential Care Facility Residents. 137
320. Conversion Or Sale Of A Resource Not Income. 137
321. Credit Life Or Disability Insurance Payments. 137
322. Department Of Education Scholarships. 137
323. Gifts Of Domestic Travel Tickets. 137
324. Grants, Scholarships, And Fellowships. 137
325. Disaster Assistance. 137
326. Domestic Volunteer Service Act Payments. 137
327. Earned Income Tax Credits. 138
328. Federal Housing Assistance. 138
329. Foster Care Payments. 138
330. Expense Of Obtaining Income. 138
331. Garnishments. 138
332. German Reparations. 138
333. Government Medical Or Social Services. 138
334. Home Energy Assistance (HEA) And Support And Maintenance Assistance (SMA). 139

335. Home Produce For Personal Use. 139
336. In-home Supportive Services. 139
337. Income Excluded By Law. 139
338. Infrequent Or Irregular Income. 139
339. Japanese-american And Aleutian Restitution Payments. 139
340. Loans. 139
341. Manpower Development And Training Act Payments. 139
342. Native American Payments. 139
343. Netherlands Wuv Payments. 139
344. Nutrition Programs For Older Americans. 139
345. Personal Services. 139
346. Radiation Exposure Compensation Act Payments. 140
347. Rebates, Refunds, AABD Underpayments And Replacement Checks. 140
348. Relocation Assistance. 140
349. Replacement Of Income Already Received. 140
350. Return Of Mistaken Payments. 140
351. Tax Refunds. 140
352. Utility Payments. 140
353. VA Monetary Allowances To A Child Born With Spina Bifida. 140
354. Victims' Compensation Payments. 140
355. Vocational Rehabilitation Services Payments. 140
356. Volunteer Services Income. 140
357. Walker V. Bayer Payments. 140
358. Weatherization Assistance. 140
359. -- 399. (Reserved). 140
400. Earned Income. 140
401. Computing Self-employment Income. 140
402. Self-employment Allowable Expenses. 141
403. Self-employment Expenses Not Allowed. 141
404. Royalties. 142
405. Honoraria. 142
406. Sheltered Workshop Or Work Activities Center Payments. 142
407. Job Training Partnership Act (Jtpa). 142
408. Programs For Older Americans. 142
409. Uniformed Services Pay And Allowances. 142
410. Rental Income. 142
411. Overpayment Withholding Of Unearned Income. 143
412. Retirement, Survivors, And Disability Insurance (RSDI). 143
413. SSI Payments. 143
414. Black Lung Benefits. 143
415. Railroad Retirement Payments. 143
416. Unemployment Insurance Benefits. 143
417. Uniform Gifts To Minors Act (UGMA). 143
418. Workers' Compensation. 143
419. Military Pensions. 143
420. VA Pension Payments. 143
421. VA Compensation Payments. 143
422. VA Educational Benefits. 143
423. Alimony, Spousal, And Adult Support. 143
424. Child Support Payments. 143
425. Dividends And Interest. 143
426. Awards. 144

427. Gifts. ... 144
428. Prizes. ... 144
429. Work-related Unearned Income. ... 144
430. Community Service Block Grants. ... 144
431. Federal Emergency Management Agency (FEMA) Emergency Food Distribution And Shelter Programs. ... 144
432. Bureau Of Indian Affairs General Assistance (BIA GA). ... 144
433. BIA Adult Custodial Care (ACC) And Child Welfare Assistance (CWA) Payments. ... 144
434. Individual Indian Money (IIM) Accounts. ... 144
435. Accelerated Life Insurance Income. ... 144
436. Real Estate Contract Income. ... 144
437. -- 450. (Reserved). ... 144
451. Deeming Income. ... 144
452. Deeming Income From Ineligible Spouse To Participant. ... 146
453. Deeming Income From Ineligible Parent To AABD Child. ... 147
454. Deeming Income From Essential Person To Participant. ... 149
455. Deeming Income From Ineligible Spouse To Participant And Child Participant. ... 149
456. Deeming Income From Sponsor To Legal Non-citizen Participant - No I-864 Affidavit Of Support. ... 150
457. Deeming Income From Sponsor To Legal Non-citizen - Sponsor Signed I-864 Affidavit Of Support. ... 152
458. -- 499. (Reserved). ... 152
500. Financial Need And AABD Cash Amount. ... 152
501. Basic Allowance. ... 152
502. Special Needs Allowances. ... 153
503. -- 510. (Reserved). ... 153
511. Semi-independent Group Residential Facility (Sigrif) Allowance. ... 153
512. Unlicensed Adult Residential Care Facility Or Adult Foster Home. ... 153
513. Licensed Adult Residential Care Facility And Adult Foster Care Home Allowances. ... 153
514. Adult Residential Care And Adult Foster Care Home Assessment And Level Of Care. ... 153
515. Increase In Level Of Care. ... 153
516. Decrease In Level Of Care. ... 154
517. -- 520. (Reserved). ... 154
521. Move From Licensed Adult Residential Care Facility Or Adult Foster Care Home To Living Situation Other Than A Nursing Home Or Hospital. ... 154
522. Move To A Licensed Adult Residential Care Facility Or Adult Foster Care Home From Nursing Home Or Hospital. ... 154
523. Move To A Licensed Adult Residential Care Facility Or Adult Foster Care Home From Living Situation Other Than Nursing Home Or Hospital. ... 154
524. Move From Nursing Home Or Hospital. ... 154
525. -- 530. (Reserved). ... 154
531. Couple Budgeting. ... 154
532. -- 539. (Reserved). ... 154
540. Standard Disregard. ... 154
541. Subtraction Of Earned Income Disregards. ... 154
542. Sixty-five Dollar ($65) Earned Income Disregard. ... 154
543. Impairment-related Work Expense (Irwe) Disregard. ... 155
544. One Half (1/2) Remaining Earned Income Disregard. ... 155
545. Blindness Work Expense Disregard. ... 155
546. Plan To Achieve Self-support (Pass). ... 155
547. Pass Approved By Department. ... 155
548. -- 599. (Reserved). ... 156

600. Department Notice Responsibility. 156
601. Advance Notice Responsibility. 156
602. Advance Notice Not Required. 156
603. Retroactive AABD Cash. 156
604. Retroactive AABD Cash And Participant Determined Ssi Eligible After Appeal. 157
605. Reporting Requirements. 157
606. Changes Affecting Eligibility Or AABD Cash Amount. 157
607. AABD Cash Underpayment. 157
608. AABD Cash Overpayment. 157
609. Offset Of Overpayment And Underpayment. 157
610. -- 619. (Reserved). 157
620. Medicaid Overpayment. 157
621. -- 622. (Reserved). 157
623. Eligibility Redetermination. 157
624. -- 649. (Reserved). 157
650. Cooperation With The Quality Control Process. 157
651. -- 699. (Reserved). 157
700. Medicaid Eligibility. 157
701. Medicaid Application. 158
702. Medical Support Cooperation. 158
703. Child Support Cooperation. 158
704. Good Cause For Not Cooperating In Securing Medical And Child Support. 158
705. Closure After Review Of Good Cause Request. 158
706. Group Health Plan Enrollment Requirement. 158
707. Medicaid Qualifying Trust Payments. 158
708. Medicaid Eligibility For AABD Participant. 158
709. -- 720. (Reserved). 158
721. Long-term Care Resident And Medicaid. 158
722. Patient Liability. 159
723. Patient Liability For Person With No Community Spouse. 159
724. Income Ownership Of Participant With Community Spouse. 161
725. Patient Liability For Participant With Community Spouse. 161
726. Fair Hearing On Csa Decision. 163
727. -- 730. (Reserved). 163
731. Medicaid Eligibility Of Married Persons. 164
732. Choosing FSI, SSI, Or CP Resource Counting Method. 164
733. Choosing FSI, SSI, Or CP Income Counting Method. 164
734. Choosing FSI, SSI, Or CP Patient Liability Or Client Participation Method. 165
735. Federal Spousal Impoverishment (FSI) Method Of Counting Income And Resources Of A Couple. 166
736. Assessment Date And Counting FSI Resources. 166
737. Resources Excluded From Assessment. 166
738. One-half (1/2) Spousal Share. 166
739. -- 741. (Reserved). 167
742. Community Spouse Resource Allowance. 167
743. Resource Allowance Limits. 167
744. CSRA Revision. 167
745. Upward Revision Of CSRA. 167
746. Resource Transfer Allowance (RTA). 167
747. Protected Period For RTA Transfer. 167
748. Extension For RTA Transfer. 167
749. Resource Eligibility For Community Spouse. 168

750. Income Eligibility For Community Spouse. 168
751. Change In Circumstances. 168
752. Notice And Hearing. 168
753. -- 760. (Reserved). 168
761. Choice Of SSI Or CP Methods. 168
762. SSI Method Of Counting Income And Resources Of A Couple. 168
763. Community Property (CP) Method Of Counting Income And Resources Of A Couple. 168
764. CP Method. 168
765. Transfer Of Rights To Future Income Not Valid. 168
766. CP Method Need Standard. 168
767. CP Method Resource Limit. 169
768. CP Method Income Disregards. 169
769. -- 775. (Reserved). 169
776. 1972 RSDI Recipient. 169
777. Eligible SSI Recipient. 169
778. Ineligible SSI Recipient. 169
779. Psychiatric Facility Resident. 170
780. Grandfathered SSI Recipient. 170
781. RSDI Recipient Entitled To Cola Disregard. 170
782. Participant Entitled To Section 1619b SSI Eligibility Status. 170
783. Appeal Of SSA Decision - Applicant Determined SSI Eligible After Appeal. 170
784. Appeal Of SSA Decision And Continued Medicaid. 170
785. Certain Disabled Children. 170
786. Extended (Postpartum) Medicaid For Pregnant Women. 171
787. Person Entitled To Home And Community Based Services (HCBS). 171
788. -- 799. (Reserved). 172
800. Newborn Child Of Medicaid Mother. 172
801. Ineligible Non-citizen With Emergency Medical Condition. 172
802. -- 805. (Reserved). 172
806. Disabled Adult Child. 172
807. Participant Receiving Early Widow's Or Widower's Social Security. 172
808. Early Widows And Widowers Beginning January 1, 1991. 172
809. Certain Disabled Widows And Widowers Through June 30, 1988. 173
810. Qualified Medicare Beneficiary (QMB). 173
811. Specified Low Income Medicare Beneficiary (SLMB). 174
812. Qualified Disabled And Working Individual (QDWI). 174
813. Sponsored Legal Non-citizen. 174
814. Child Subject To Deeming. 175
815. Fugitive Felon Or Probation Or Parole Violator. 175
816. -- 830. (Reserved). 175
831. Asset Transfer For Less Than Fair Market Value. 175
832. Medicaid Penalty For Asset Transfers. 175
833. Asset Transfer Look- Back. 175
834. Period Of Restricted Coverage For Asset Transfers. 175
835. Calculating The Penalty Period. 175
836. Multiple Penalty Periods Applied Consecutively. 176
837. Life Estates And Annuities As Asset Transfers. 176
838. Trusts As Asset Transfers. 179
839. Transfer Of Jointly-owned Asset. 179
840. Penalty Exceptions For Asset Transfers. 180
841. -- 870. (Reserved). 181
871. Treatment Of Trusts. 181

872. Exempt Trusts. 182
873. Payments From An Exempt Trust For Disabled Person Or Pooled Trust. 183
874. -- 914. (Reserved). 183
915. Medicaid Redetermination. 183
916. -- 995. (Reserved). 183
996. Confidentiality. 183
997. -- 999. (Reserved). 184

16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE
Docket No. 16-0306-9801
000. Legal Authority. 186
001. Title And Scope. 186
002. Definition Of Terms And Abbreviations. 186
100. Identification Of Refugees. 187
125. Identification Of Entrants. 189
135. Assistance To Cuban/haitian Entrants. 189
150. Sponsorship. 190
151. -- 399. (Reserved). 195
400. Refugee Medical Assistance Program. 195
401. -- 599. (Reserved). 197
600. Relationship To SSI. 197
700. Precedence Of Categorical Assistance Programs. 197
725. Reporting Changes. 198
730. Overpayments And Restoration Of Benefits. 198
800. Case Record Information. 198

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)
Docket No. 16-0308-9802
215. Excluded Income. 201
261. Applicant One-time Cash Payment Eligibility Criteria. 202
345. -- 369. (Reserved). 203
370. At-risk Services. 203
371. At-risk Eligibility Criteria. 203
372. Services Paid. 203
373. Limit To Number Of At-risk Participants. 204
374. Time Limit. 204
375. -- 999. (Reserved). 204

Docket No. 16-0308-9803
149. Good Cause For Not Cooperating. 205

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
Docket No. 16-0309-9801
112. Rehabilitative Services - - Mental Health. 207
115. Clinic Services -- Mental Health Clinics. 212
116. Targeted Case Management For The Mentally Ill. 217

Docket No. 16-0309-9807
401. -- 764. (Reserved). 223
765. Waiver Services For Adults With A Traumatic Brain Injury. 223
766. Eligible Target Group. 224
767. Diagnostic Criteria. 224
768. Services Provided. 224

769. Residential Habilitation. 224
770. Habilitation Services. 224
771. Personal Assistance Services. 225
772. -- 779. (Reserved). 225
781. Respite Care Services. 225
782. Supported Employment. 226
783. Exclusions From Supported Employment. 226
784. Transportation Services. 226
785. Environmental Accessibility Adaptations. 226
786. Specialized Medical Equipment And Supplies. 226
787. Personal Emergency Response Systems (PERS). 226
788. Home Delivered Meals. 227
789. Extended State Plan Services. 227
790. Nursing Services. 227
791. Personal Care Services. 227
792. Behavior Consultation/crisis Management. 227
793. Day Rehabilitation. 227
794. Place Of Service Delivery. 228
795. Service Delivered Following A Written Plan. 228
796. Provider Qualifications. 229
797. Recipient Eligibility Determination. 231
798. Provider Reimbursement. 232
799. Provider Records. 233
800. Provider Responsibility For Notification. 233
801. Records Maintenance. 233
802. Home And Community Based Waiver Recipient Limitations. 233
803. -- 995. (Reserved). 233

Docket No. 16-0309-9808
171. -- 184. (Reserved). 242
401. -- 499. (Reserved). 242
500. Inspection Of Care/utilization Control In Long-term Care Facilities. 242
501. Prepayment Screen And Determination Of Entitlement To Medicaid Payment For Nf Care And Services. 242
502. Information Required For Determination - Medical Evaluation. 243
503. Information Required For Determination - Plan Of Care. 243
504. Information Required For Determination - Social Information. 243
505. Information Required For Determination - Level I And Ii Screens. 243
506. Criteria For Determining Need For Nf Care. 243
507. Skilled Services. 243
508. -- 519. (Reserved). 244
520. Annual Utilization Control Review. 244
521. Quarterly Reviews. 245
522. -- 599. (Reserved). 245
600. Determination Of Entitlement For Medicaid ICF/MR Payment. 245
601. Information Required For Determination. 245
602. -- 609. (Reserved). 246
610. Criteria For Determining ICF/MR Level Of Care. 246
611. Individuals With Mental Retardation Or Related Conditions. 246
612. Criterion 1 - Functional Limitations. 247
613. Criterion 2 - Maladaptive Behavior. 247
614. Criterion 3 - Combination Functional/maladaptive Behaviors. 247

615. Criterion 4 - Medical Condition. 247
616. -- 629. (Reserved). 247
630. Change In Eligibility - ICF/MR. 247
631. -- 649. (Reserved). 248
650. Definition Of Mental Retardation Or Related Condition. 248
651. Active Treatment. 248
652. Service And Activities Not Considered Active Treatment. 248
653. Determination Of Need For Active Treatment. 248
654. Recertification For ICF/MR Level Of Care. 248
655. Annual Recertification Requirement. 248
656. -- 659. (Reserved). 248
660. Level Of Care Change. 248
661. Appeal Of Determinations. 249
662. Regional Review Committee. 249
663. Supplemental On-site Visit. 249
664. -- 995. (Reserved). 249

Docket No. 16-0309-9810
014. Coordinated Care. 252
110. Laboratory And Radiology Services. 255

16.03.20 - RULES GOVERNING ELECTRONIC BENEFITS TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS
Docket No. 16-0320-9801
030. Abbreviations. 258
130. Closure Of Stale Benefit Accounts. 258
140. Conversion Of Food Stamp Benefit Account Balances. 258
141. -- 199. (Reserved). 259

16.04.02 - IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES
Docket No. 16-0402-9801
004. Purpose. 261

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
Docket No. 16-0612-9802
000. Legal Authority. 267
001. Title And Scope. 267
002. Written Interpretations. 267
003. Administrative Appeals. 267
004. Definitions. 267
005. Abbreviations. 269
006. -- 049. (Reserved). 269
050. Application. 269
051. Effective Date. 269
052. -- 056. (Reserved). 269
057. Parental Choice. 269
058. -- 099. (Reserved). 269
100. Eligibility For Child Care Assistance. 269
101. Residency. 269
102. Citizenship And Alienage. 269
103. Social Security Numbers (Ssn). 269
104. Family Composition. 269

105. Eligible Child. 269
106. -- 107. (Reserved). 270
108. Qualifying Activities For Child Care. 270
109. Incapacitated Parent. 270
110. Interim Child Care Payment. 270
111. -- 199. (Reserved). 271
200. Income Limit. 271
201. Countable Income. 271
202. Excluded Income. 271
203. Self-employment Income. 272
204. -- 249. (Reserved). 272
250. Child Care Provider Licensing. 272
251. Health And Safety Requirements. 272
252. Child Care Provider Registration. 273
253. -- 254. (Reserved). 273
255. Conviction Or Withheld Judgment. 273
256. Purview Of Child Protection Act Or Juvenile Justice Reform Act. 273
257. Parent Or Caretaker Access To Child Care Premises. 273
258. -- 300. (Reserved). 273
301. Allowable Child Care Costs. 273
302. Reporting Requirements. 274
303. -- 304. (Reserved). 274
305. Amount Of Payment. 274
306. (Reserved). 275
307. Sliding Fee Schedules. 275
308. Redetermination. 277
309. Complaint Procedure. 277
310. (Reserved). 277
311. Disallowed Payments. 277
312. Overpayments And Recovery. 278
313. Intentional Program Violations (IPV). 278
314. Underpayment. 278
315. (Reserved). 278
316. Funding Restrictions. 278
317. Confidentiality. 278
318. -- 999. (Reserved). 278

IDAPA 01 - IDAHO STATE BOARD OF ACCOUNTANCY

01.01.01 - RULES GOVERNING THE IDAHO BOARD OF ACCOUNTANCY

DOCKET NO. 01-0101-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-204(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The rules for the Quality Review Program were drafted in 1992, approved by the Legislature in 1993, and became effective in 1996. Several references have become obsolete since the inception of these rules. Additionally, two important areas that were overlooked in the initial drafting have become evident since the program's implementation. Both items are in the Board's Act, but not addressed in the rules.

The proposed rule changes do the following: remove obsolete date references; remove obsolete organization names; correct grammatical errors; include the practice unit registration requirement specified in law; and include the penalty for non-compliance pursuant to Idaho Code but not currently in the rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee or charge imposed. However, the rules do specify the monetary penalty for non-compliance with practice unit registration and quality review requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Barbara R. Porter 208-334-2490. Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 26th day of August 1998.

Barbara R. Porter, Executive Director
Idaho State Board of Accountancy
1109 Main Street, Owyhee Plaza Ste 470
PO Box 83720, Boise, Idaho 83720-0002
208-334-2490 (Phone) / 208-334-2615 (Fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-9801

605. SCHEDULING OF THE QUALITY REVIEW (Rule 605).

01. Frequency. Not less than once in each three (3) years a practice unit engaged in the practice of public accounting shall undergo, at its own expense, a quality review commensurate in scope with its practice. (7-1-96)

02. Currently Enrolled. A practice unit currently enrolled in ~~an approved quality review~~ a program of an approved administering organization will use the year of review assigned by ~~that entity~~ the administering organization. The practice unit will notify the board of the deadlines set by ~~that entity~~ the administering organization. ~~(7-1-96)~~(____)

03. Review Year. ~~Practice units registered with the board as of January 1, 1996, other than those in Subsection 605.02 above shall be assigned a review year to commence no later than December 31, 1997.~~ Each practice unit shall enroll with one (1) of the approved administering organizations. Each practice unit shall adopt the review date assigned by the appropriate administering organization and shall notify the board of such date. ~~(7-1-96)~~(____)

04. New Practice Units. Each new practice unit registered with the board ~~after January 1, 1996~~ shall enroll in a program of an approved administering organization within one (1) year from its initial date of registration, shall adopt the review date assigned by the administering organization, and shall notify the board of such date. ~~(7-1-96)~~(____)

05. Mergers or Combinations. In the event that two (2) or more practice units are merged or combined, the resulting practice unit shall retain the quality review year of the practice unit with the largest number of accounting and auditing hours. (7-1-96)

06. Dissolutions or Separations. In the event that a practice unit is divided, the new practice unit(s) shall retain the review year of the former practice unit. In the event that the year under review is less than twelve (12) months, a review year shall be assigned so that the review occurs within eighteen (18) months of the commencement of the new practice unit(s). (7-1-96)

07. Multi-State Practices. With respect to a multi-state practice unit, the QROC may accept a quality review based solely upon work conducted outside of this state if the quality review is performed in accordance with requirements equivalent to those of this state. (7-1-96)

08. Report Issuance. It is the responsibility of the practice unit to anticipate its~~'~~ need for quality review services in sufficient time to enable the reviewer to issue the report within six (6) months after the review date. ~~(7-1-96)~~(____)

09. Extensions. The board may accept an extension recommended by the administering organization for the conduct of a review, provided the board is notified by the practice unit within thirty (30) days of the date of receipt of recommendation for such an extension. (7-1-96)

10. Just Cause. The board may change a practice unit's~~'~~ quality review year for just cause. ~~(7-1-96)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

607. REPORTING TO THE BOARD (Rule 607).

01. Practice Unit Registration Form. Pursuant to Section 54-214(1), Idaho Code, all licensees, whether or not they are engaged in the practice of public accounting, shall annually file a practice unit registration report, on such form and by such date as prescribed by the Board. (____)

02. Quality Review Acceptance Letter. A practice unit which has undergone Quality Review will file with the board a copy of the letter accepting the review report from the administering organization. The letter will be filed within 30 days after receipt. The Board reserves the right to obtain all of the other information relating to the quality review. ~~(7-1-96)~~(____)

608. ADMINISTERING ORGANIZATIONS (Rule 608).
This section shall not require any practice unit to become a member of any administering organization. Qualified administering organizations which register with and are approved by the board based on their adherence to the Quality Review minimum standards, shall be ~~the:~~ as follows: ~~(7-1-96)~~(____)

01. Monitoring Organizations. AICPA practice monitoring organizations such as the SEC Practice Section (SECPS). (7-1-96)

~~02. The Private Companies Practice Section (PCPS). (7-1-96)~~

0~~3~~2. Quality Review Program. Quality review program of the American Institute of Certified Public Accountants (AICPA). (7-1-96)

0~~4~~3. State CPA Societies. State CPA societies fully involved in the administration of the AICPA Quality Review Program and their successor organizations which meet the minimum standards. (7-1-96)

0~~5~~4. National Society of ~~Public~~ Accountants (NS~~P~~A). ~~(7-1-96)~~(____)

0~~6~~5. And Such Other Entities. ~~This section shall not require any practice unit to become a member of any administering organization.~~ ~~(7-1-96)~~(____)

609. FEE FOR APPROVAL OF ADMINISTERING ORGANIZATIONS (Rule 609).
The board ~~will~~ may charge a fee of fifty dollar ($50) to verify an administering organization's qualifications for conducting quality reviews and may use such outside resources for verification as it deems appropriate. ~~(7-1-96)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

611. QROC DUTIES AND RESPONSIBILITIES (Rule 611).
The duties and responsibilities of the QROC shall consist of the following: (7-1-96)

01. Monitor Administering Organizations. Monitoring of the administering organizations to provide reasonable assurance that quality reviews are being conducted and reported on in accordance with the quality review minimum standards. (7-1-96)

02. Review Policies. Reviewing the policies and procedures of applicant administering organizations as to their conformity with Rule 615. (7-1-96)

03. Submit Reports. Reporting to the board on conclusions reached and making recommendations, including the continued approval of the administering organization, as a result of performing the functions described in Subsections 611.01 and 611.02. Reports submitted shall not contain information concerning specific practice units or reviewers. (7-1-96)

04. Consult with the Board. Consulting with the board regarding appropriate handling of practice units which have unresolved matters resulting from the quality review process or have not complied with or have disregarded the quality review requirement. (7-1-96)

05. List Approved Administering Organizations. Provide to the board ~~on or before July 1, 1996~~ a list of names of those organizations which meet the minimum qualifications to serve as an administering organization pursuant to Rule 608. ~~(7-1-96)~~(____)

06. Other Duties. Such other related duties and responsibilities as may be assigned by the board. (7-1-96)

612. ADDITIONAL QROC OVERSIGHT PROCEDURES FOR NON-SECPS ~~AND PCPS~~ ADMINISTERING ORGANIZATIONS (Rule 612).
The oversight procedures to be performed by the committee in monitoring non-SECPS ~~and PCPS~~ administering organizations may consist of the following: ~~(7-1-96)~~(____)

01. Visit the Administering Organization Annually. During such visit, QROC shall: (7-1-96)

a. Meet with the organization's quality review committee during the committee's consideration of quality review documents. (7-1-96)

b. Review the organization's procedures for administering the quality review program. (7-1-96)

c. Review, on the basis of a random selection, a number of on-site and off-site reviews performed by the organization to include, at a minimum, a review of the report on the quality review, the letter of comments (if any), the practice unit's response to the matters discussed in the letter of comments, the sponsoring organization's acceptance letter outlining any additional corrective or monitoring procedures, and the working papers on the selected reviews; the purpose of review by QROC is to determine whether the reviews are being conducted and reported on in accordance with the quality review minimum standards. (7-1-96)

d. Expand the review of quality review documents if significant deficiencies, problems, or inconsistencies are encountered during the review of the materials. (7-1-96)

02. Oversight Report Review. Alternatively, for those organizations participating in the AICPA oversight program in connection with involved state societies, QROC may obtain and review the oversight program report to insure that the reviews are being conducted and reported on in accordance with the Quality Review Minimum Standards. (7-1-96)

03. Annual Recommendation. On the basis of the result of the foregoing procedures, QROC shall make an annual recommendation to the board as to the continuing qualifications of the approved administering organization. (7-1-96)

(BREAK IN CONTINUITY OF SECTIONS)

614. ~~ADDITIONAL OVERSIGHT PROCEDURES FOR THE PCPS (Rule 614)~~ (RESERVED).
~~For reviews administered by the PCPS, QROC shall review the annual statistics obtained from PCPS and perform further procedures, as considered appropriate. Based on the results of its review, the QROC shall make an annual recommendation to the board as to the qualifications of PCPS as an approved administering organization. (7-1-96)~~

(BREAK IN CONTINUITY OF SECTIONS)

619. ~~-- 699.~~ ~~(RESERVED)~~ PENALTY FOR FAILURE TO COMPLY (RULE 619).
A one hundred dollar ($100) penalty shall be assessed for each act of non-compliance with this section. Examples of non-compliance include, but are not limited to the following: failure to timely submit a practice unit registration form; failure to timely enroll with an approved administering organization; and failure to timely complete a required quality review. A firm license will not be issued until and unless the practice unit complies with all practice unit registration and quality review requirements, pays any associated fee(s) for non-compliance as provided above, and any other penalties the Board may impose pursuant to Section 54-219, Idaho Code. The annual license of the principle(s) of a non-compliant practice unit will not be issued until and unless the practice unit complies with all requirements of this section, provided the licensee has met all licensing requirements. (____)

620. -- 699. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.01.04 - ENVIRONMENTAL AUDIT PROTECTION RULES

DOCKET NO. 02-0104-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 9-810, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Environmental Audit Protection Act, Title 9, Chapter 8, Idaho Code, became null and void on December 31, 1997; therefore it is necessary to repeal the rule.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the July 1, 1998, Idaho Administrative Bulletin, Volume 98-7, page 1.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robert S. Hays at (208) 442-2803.

DATED this 3rd day of August, 1998.

Patrick A. Takasugi, Director
Idaho Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 01
Chapter 04

ENVIRONMENTAL AUDIT PROTECTION RULES

There are no substantive changes from the proposed rule text.
This chapter is being repealed in its entirety.

The original text was published in the Idaho Administrative Bulletin,
Volume 98-7, July 1, 1998, page 1.

This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective September 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The amendment extends the deadline for compliance with UR. 2.2 of Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices (incorporated by reference in IDAPA 02.02.14) from January 1, 1999, to January 1, 2002. UR. 2.2 requires that all vehicle metering systems be equipped with ticket printers for all sales where product is delivered through a meter. Compliance with the January 1, 1999, deadline in UR 2.2. would cause some economic hardship in the industry and some factions affected by the rule are requesting a complete exemption. The extension allows the Idaho State Department of Agriculture and industry to better evaluate the rule before it goes into effect.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the governor has found that temporary adoption of this rule is appropriate for the following reasons:

The rule is being promulgated to be in compliance with deadlines in governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Lane Jolliffe or Jim Boatman at (208) 332-8660.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 26th day of August, 1998.

Patrick A. Takasugi, Director
Idaho Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-9801

050. CHECKING, TESTING AND EXAMINING OF DEVICES, PACKAGES AND LABELS.

01. Required Reference Materials. The latest edition of Handbook No. 44 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices", together with current supplements and amendments thereto, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in the Department of Agriculture ~~Regulations concerning~~ Rules for Weights and Measures. ~~(7-1-93)~~(9-1-98)T

02. Ticket Printer - Customer Ticket. Vehicle-mounted metering systems shall be equipped with a ticket printer which shall be used for all sales where product is delivered through the meter. A copy of the ticket issued by the device shall be left with the customer at the time of delivery or as otherwise specified by the customer. This Section shall apply to vehicles put into service on or after January 1, 1995, and shall be retroactively applied to all vehicles on January 1, 2002. (9-1-98)T

0~~2~~3. Required Reference Materials For Checking Prepackaged Commodities. The latest edition of Handbook No. 67 and Handbook No. 133 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Checking Prepackaged Commodities," together with current supplements and amendments thereto, shall be the authority in checking prepackaged commodities, unless otherwise stated in the Department of Agriculture ~~Regulations concerning~~ Rules for Weights and Measures. ~~(7-1-93)~~(9-1-98)T

0~~3~~4. Required Reference Materials For Examinations of Farm Milk Tanks. The latest edition of Handbook No. 98 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Examination of Farm Milk Tanks," together with current supplements and amendments thereto, shall be the authority in examining farm milk tanks, provided, however, that milk tanks may be calibrated and charts therefore may be formulated on a weight basis, unless otherwise stated in the Department of Agriculture ~~Regulations concerning~~ Rules for Weights and Measures. ~~(7-1-93)~~(9-1-98)T

0~~4~~5. Required Reference Materials for Examination of Liquefied Petroleum Gas Liquid-Measuring Devices. The latest edition of Handbook No. 99 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Examination of Liquefied Petroleum Gas Liquid-Measuring Devices," together with current supplements and amendments thereto, shall be the authority in examining liquefied petroleum gas measuring devices, unless otherwise stated in the Department of Agriculture ~~Regulations concerning~~ Rules for Weights and Measures. ~~(7-1-93)~~(9-1-98)T

0~~5~~6. Other Required Reference Materials. The above National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, handbooks will be used by the Idaho Department of Agriculture to determine specifications, tolerances, procedures, methods for testing, sealing, checking and examining devices, equipment and packages within the capacity and limits of personnel and equipment available to the Idaho Department of Agriculture. (7-1-93)

0~~6~~7. Local Availability. Copies of such handbooks are on file with the State Law Library and the Idaho Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho, 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. (7-1-93)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE USE AND APPLICATION

DOCKET NO. 02-0303-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 22-3421, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendment to Section 250 adds language to exempt target area from financial responsibility coverage, clarifies the exclusions, and provides proper nomenclature. The amendment to Section 800 adds carrot seeds as nonfood and nonfeed for the purpose of pesticide registration and use.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the July 1, 1998, Idaho Administrative Bulletin, Volume 98-7, pages 4 through 7.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mike Everett at (208) 332-8531.

DATED this 14th day of August, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 03
Chapter 03

RULES GOVERNING PESTICIDE USE AND APPLICATION

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 4 through 7.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE USE AND APPLICATION

DOCKET NO. 02-0303-9802

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rule-making will be held as follows:

October 19, 1998, 7:00 p.m.
O'Callahan's at the Shilo Inn
Idaho Falls, Idaho

October 20, 1998, 7:00 p.m.
College of Southern Idaho, Shields Building
Twin Falls, Idaho

October 21, 1998, 7:00 p.m.
Nampa Civic Center
Nampa, Idaho

The hearing sites will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The amendments add the Livestock Protection Collar as a license category and allow United States Department of Agriculture Wildlife Services personnel to be licensed and to use the Livestock Protection Collar containing Compound 1080. The amendment also defines training and recordkeeping requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rod Awe at (208) 332-8615.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before November 1, 1998.

DATED this 26th day of August, 1998.

Patrick A. Takasugi, Director
Idaho Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-9802

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration of Competence. (3-20-97)

a. Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

b. An applicant shall demonstrate competency in the following areas: (3-20-97)

i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)

iii. Laws, rules, and regulations governing pesticides. (3-20-97)

iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)

v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)

vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)

vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)

viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)

ix. Chemigation practices involving the application of chemicals through irrigation systems. (3-20-97)

x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (   )

(1) Characteristics and habits of predatory animals, and particularly, coyotes. (   )

(2) Training on alternative controls of predation. (   )

(3) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (   )

(4) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (   )

(5) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (   )

(6) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (   )

(7) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (   )

(8) Safe handling, attachment, and storage of LPC collars. ( )

(9) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. ( )

(10) The requirement to perform inspections once every week to ensure that collars in use are accounted for, property positioned, and intact. ( )

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: ( )

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. ( )

(2) Read and understand the labeling specific to the LPC. ( )

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. ( )

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. ( )

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. ( )

(6) Properly dispose of the LPCs. ( )

02. Certification. A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the categories of pesticides they apply. (3-20-97)

a. Professional applicators shall be certified and licensed in one or more of the following categories: (3-20-97)

i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)

ii. Agriculture. For persons doing field crop applications. Agriculture Herbicide (AH). Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/ fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (3-20-97)

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons doing outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/Fungicide (OI).

For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (3-20-97)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Animal Damage Control personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (3-20-97)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed Control (AW). For irrigation districts, canal companies and others, for weed control on aquatic sites. (3-20-97)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed Control applicators (see Subsection 100.02.xii.). (3-20-97)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (   )

b. Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)

c. Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)

d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)

i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)

ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

03. Department Examination Procedures. (3-20-97)

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period shall be required before an applicant may retake an examination: (3-20-97)

i. One (1) week shall be required for the first failure. (3-20-97)

ii. Two (2) weeks shall be required for the second failure. (3-20-97)

iii. Thirty (30) days shall be required for the third or subsequent failures. (3-20-97)

04. Licensing Periods and Recertification. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (3-23-98)

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license. (3-20-97)

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth (13th) month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. (3-20-97)

101. ~~-- 149.~~ ~~(RESERVED)~~ REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC.

01. Registration. Use restricted to United States Department of Agriculture, Animal and Plant Health Inspection Service, wildlife services (USDA, APHIS, WS) employees, licensing, and recordkeeping requirements for the LPC. ( )

a. Only the USDA, APHIS, WS shall register the LPC. USDA, APHIS, WS shall hereinafter be known as the registrant for the purpose of these rules. ( )

b. The LPC shall be transferred only by the registrant and only to professional applicators who are certified in the LC category and who are current employees of USDA, APHIS, WS. ( )

c. The LPC shall be used only by professional applicators with certification in the LC category who are current employees of the USDA, APHIS, WS. ( )

d. Only the manufacturer is authorized to fill collars with Compound 1080. Certified professional

applicators or any other person shall not fill collars or remove the pesticide from the collars. ( )

e. Before obtaining certification and licensing, LC applicants shall receive training and demonstrate competency in the areas listed in Subsection 100.01.b.x. and 100.01.b.xi. of these rules and satisfy Section 22-3404, Idaho Code. ( )

02. Use of the LPC (Compound 1080). ( )

a. Use of collars shall conform to all applicable federal and state regulations. ( )

b. Collars shall be used only upon sheep within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of livestock. Fenced pastures and fences as herein defined shall be referred to elsewhere in this section as "area". Collars shall not be used on unfenced, open range. ( )

c. Collars shall be used to take coyotes only. ( )

d. LPCs shall be used only as a "last resort" measure. ( )

e. Warning signs shall be posted at all usual points of entry to the area, including any access roads, or footpath or other walking route that enters the area. When there are no usual points of entry, signs shall be posted in the corners of the area or in any other location affording maximum visibility. ( )

i. The signs shall remain visible and legible throughout the collar use. ( )

ii. All warning signs shall be posted and inspected once a week by the certified Wildlife Services employee to ensure their continued presence and legibility, and will be removed when all collars are removed and accounted for. ( )

iii. Warning signs shall be at least fourteen (14) inches by sixteen (16) inches with letters at least one (1) inch in height. ( )

iv. All warning signs shall have a background color that contrasts with red. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. Letters for all words shall be clearly legible. A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in a shade that contrasts with red. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand. ( )

v. The name of the pesticide (Compound 1080) and the date of use shall appear on the warning sign. ( )

f. Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. ( )

i. If any collared animal is not accounted for in any one (1) check, a complete and intensive search for the collared animal shall be conducted. ( )

ii. If more than three (3) LPCs are unaccounted for during any fourteen (14) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs. ( )

g. If a collar is found to have been punctured by a predator attacking a collared animal, a complete and

intensive search shall be conducted for the predator that punctured the collar. ( )

i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation, or soil shall be through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions. ( )

h. Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals, and corrosive chemicals. Intact collars shall not be stored in any structure occupied by humans. ( )

i. Prior to any intended use or application of the LPCs, the professional applicator shall submit to ISDA a written notice of intended use, as prescribed by the ISDA. The notice shall contain the following: ( )

i. The professional applicator's license number issued by the ISDA; ( )

ii. A list of the names and addresses of the owners or persons in charge of the areas to be treated and a map of the geographic location of such areas; ( )

iii. The approximate size of the area where treatment will take place. ( )

iv. The intended period of use; and ( )

v. The number of collars to be used. ( )

j. USDA, APHIS, WS shall accurately keep and maintain the following records and reports: ( )

i. Records of all collars distributed; ( )

ii. The name and address of each professional applicator receiving the collars; and ( )

iii. The dates and the number of collars received by each professional applicator. ( )

iv. These records shall be maintained by USDA, APHIS, WS for a period of three (3) years and shall be made available to the ISDA for inspection, duplication, and verification upon request by the ISDA. ( )

v. A report of this information shall be submitted to the ISDA and the US EPA upon each collar distribution. ( )

k. The professional applicator shall accurately keep and maintain the following records and reports: ( )

i. Any suspected poisoning of humans, threatened or endangered species, domestic animals, or non-target wild animals shall be reported immediately (within twenty-four (24) hours or less) to the ISDA and US EPA; ( )

ii. The name and address of the person on whose property the LPC was used or, if different from the property owner, the same information for the person in charge of the area where the collars will be used; ( )

iii. A map of the geographic location and size of the area in which the LPCs were used; ( )

iv. A summary report of the date each individual collar was obtained by the professional applicator, placed on livestock, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage, or disposed of through the ISDA Pesticide Disposal Program; ( )

v. The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080 in LPCs; ( )

vi. The dates and results of each collar inspection; and ( )

vii. A written description of any complete and intensive search for missing collars or poisoned animals conducted as specified in these rules. ( )

viii. The records required by this rule shall be maintained by the professional applicator for a period of three (3) years and shall be made available to the ISDA for inspection, duplication and verification upon request of the ISDA. ( )

ix. A report of this information shall be submitted to the ISDA as specified in these rules. ( )

102. RESTRICTIONS AND PENALTIES.
Any person who violated or fails to comply with any provision of these rules, or Title 22, Chapter 34, Idaho Code, shall be subject to one (1) or more of the following actions. ( )

01. Revocation, Suspension or Denial to Issue or Renew. Revocation, suspension, or denial to issue or renew the license or certification of an applicant, licensee, or certificate holder in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3409. ( )

02. Amendment, Suspension, or Revocation of the LPC Registration. Amendment, suspension, or revocation of the LPC registration in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3408. ( )

03. Imposition of Civil Penalty. Imposition of a civil penalty, in accordance with Title 22, Chapter 34, Idaho Code, section 22-3423. ( )

04. Initiation or Pursuit of any Other Action. Initiation or pursuit of any other action of an enforcement nature available through Title 22, Chapter 34, Idaho Code. ( )

103. -- 149. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.03 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 25-207 and 25-601, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. USDA has identified six counties in western Wyoming as a Brucellosis surveillance area. The state of Wyoming has concurred with this designation and is promulgating rules to require testing of cattle and domestic bison that change ownership or are removed from the surveillance area. The purpose of this rule is to support Wyoming's efforts to achieve the necessary surveillance and the assure that cattle and domestic bison imported into Idaho from the surveillance area are tested for Brucellosis. The rule will also clarify which cattle and domestic bison are test eligible.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the June 3, 1998, Idaho Administrative Bulletin, Volume 98-6, pages 1 through 12.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dr. Bob Hillman at (208) 332-8540.

DATED this 21st day of July, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 04
Chapter 03

RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-6, June 3, 1998, pages 1 through 12.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.05 - RULES CONCERNING DISEASES OF HOPS (Humulus lupulus)

DOCKET NO. 02-0605-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Title 22, Chapters 7, 19, and 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The rules establish definitions, add a regulated pest, establish procedures for the powdery mildew certification of propagating materials to be shipped into Idaho and correct the legal citation for charging fees.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the June 3, 1998, Idaho Administrative Bulletin, Volume 98-6, pages 13 through 17.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dr. Roger Vega at (208) 332-8620.

DATED this 3rd day of August, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 06
Chapter 05

RULES CONCERNING DISEASES OF HOPS (Humulus lupulus)

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-6, June 3, 1998, pages 13 through 17.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.29 - RULES CONCERNING NON-NATIVE PHYTOPHAGOUS SNAILS

DOCKET NO. 02-0629-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Title 22, Chapters 19 and 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The rules identify and place a quarantine on several types of plant-eating snails known to be plant pests that could potentially become established in Idaho. The establishment of these snails in Idaho could negatively impact the state's nursery export business through the imposition of quarantines by other states. Some agricultural commodities could also be attacked by these snails. Establishment of these types of snails could impact the home gardener who frequently grows the types of plants most favored by these snails.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the June 3, 1998, Idaho Administrative Bulletin, Volume 98-6, pages 18 through 21.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, Mr. Michael E. Cooper at (208) 332-8620.

DATED this 3rd day of August, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 06
Chapter 29

RULES CONCERNING NON-NATIVE PHYTOPHAGOUS SNAILS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-6, June 3, 1998, pages 18 through 21.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

DOCKET NO. 02-0801-9801

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Title 25, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendments provide authority to control scrapie, a fatal neurological disease of sheep and goat and other serious diseases of sheep and goats; require unique identification of certain sheep; provide an ability to require destruction of infected, source, and high-risk animals and flocks; and provide a mechanism for indemnification of owners whose animals are destroyed.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the January 7, 1998, Idaho Administrative Bulletin, Volume 98-1, pages 17 through 24.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Stan Boyd, Idaho Board of Sheep Commissioners, at (208) 334-3115 or Dr. Bob Hillman, Idaho State Department of Agriculture, at (208) 332-8540.

DATED this 21st day of July, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 08
Chapter 01

SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-1, January 7, 1998, pages 17 through 24.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

DOCKET NO. 02-0801-9802

NOTICE OF PENDING RULES

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Title 25, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendment to the rules raises the assessment on wool from five cents ($.05) to six cents ($.06) per pound of wool, in the grease basis, except tags, crutchings, and dead wool. The increased fee provides monies for the scrapie indemnity fund and provides increased funds for the state's Animal Damage Control (ADC) program.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 98-1, pages 25 and 26.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Stan Boyd, Idaho Board of Sheep Commissioners, at (208) 334-3115 or Dr. Bob Hillman, Idaho State Department of Agriculture, at (208) 332-8540.

DATED this 21st day of July, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 08
Chapter 01

SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-1, January 7, 1998, pages 25 and 26.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

This amends the present rule to exempt landscape sprinkler control systems from the Limited Energy license.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gary L. Malmen, Electrical Bureau Chief, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2183.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before October 28, 1998.

DATED this 27th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 100
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-9801

014. ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE.
The following shall be considered as electrical specialties, the practice of which shall require a special license: (4-9-79)

01. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. Any person qualifying for and having in his possession a current elevator electrical license may install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. He shall be employed by a licensed elevator electrical contractor and his installation shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (4-9-79)

02. Sign Electrical. Any person qualifying for and having in his possession a current sign electrical license may install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; providing the disconnecting means is located on the sign or within a distance of two (2) feet and in sight therefrom. He shall be employed by a licensed sign electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (4-9-79)

03. Creation of Manufacturing or Assembling Equipment Specialty Contractor and Specialty Electrician. (7-1-94)

a. Effective July 1, 1994, the category of licensed specialty manufacturing or assembling equipment contractor is created. Effective July 1, 1994, any person qualifying for and having in his possession a current license in the category of specialty manufacturing or assembling equipment electrician must be employed by a licensed specialty manufacturing or assembling equipment contractor in order to work in this category. The holder of a specialty license in this category may not countersign a contractor's license application as supervising journeyman except for work within this specialty. (7-1-94)

b. Any person licensed pursuant to Subsection 014.03.a. may install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. All wiring completed shall meet all requirements of Title 54, Chapter 10, Idaho Code, all rules promulgated pursuant thereto, and the most current edition of the National Electrical Code. (7-1-94)

04. Limited Energy Electrical License. (9-17-85)

a. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, ~~landscape sprinkler controls,~~ key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. ~~(7-1-98)~~(____)

b. Limited ~~E~~energy ~~S~~systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. ~~(7-1-98)~~(____)

c. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy electrical license and must be employed by a licensed limited energy specialty electrical contractor or electrical contractor. The holder of a specialty license may only countersign a contractor's application as a supervising journeyman for work within his specialty. (7-1-98)

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this section shall be done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license is contingent upon the granting of a specialty electrical license to an employee and whose installations shall be limited to this category. The holder of a specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. (1-1-92)

06. Well Driller and Water Pump Installer Electrical Licenses. All such installations performed by

individuals under this section shall be done in accordance with the applicable provisions of the approved National Electrical Code. He shall be employed by a licensed well driller and water pump installer electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations: (1-14-87)

a. Single or three (3) phase well pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device installed by others. (7-1-98)

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (7-1-98)

c. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (1-14-87)

07. Refrigeration, Heating, and Air-Conditioning Electrical Installer. All such installation, maintenance, and repair performed by individuals under this section shall be done in accordance with applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (9-17-85)

a. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

c. Refrigeration, Air-Conditioning and Heating Systems (three-phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-2605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

To provide for specialty contractor and journeyman licensing and to provide for apprentice registration in order to perform certain appliance installations that involve some degree of plumbing work. Also, to provide for specialty contractor and journeyman licensing for water pump installers and to provide for registration for specialty water pump installer apprentices.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Joe Meyer, Plumbing Bureau Chief, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0068, (208) 334-3442.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before October 28, 1998.

DATED this 26th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-9801

018. ~~-- 999.~~ ~~(RESERVED).~~ APPLIANCE PLUMBING SPECIALITY LICENSE.
The purpose of this section is to set out the special types of plumbing installations for which an appliance plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ( )

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

03. Minimum Experience Requirements. ( )

a. Experience gained by an individual while engaged in the practice of appliance plumbing specialty shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ( )

b. All qualified appliance plumbing specialty journeymen shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ( )

c. Appliance plumbing specialty contractors must have a two thousand dollars ($2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of appliance plumbing specialty contractor's test. ( )

d. Appliance plumbing specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of seventy-two (72) hours of approved, related training classes and successful completion of the appliance plumbing specialty journeyman's test. ( )

e. Appliance plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed approved related training classes and maintain state registration. ( )

04. Special Grandfathering Provision. ( )

a. Contractor: In lieu of the thirty (30) months minimum journeyman experience requirement, an individual may use five (5) years experience of owning and operating a business where this specialty applies AND satisfactory completion of seventy-two (72) hours of approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least five (5) years. ( )

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use five (5) years experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least five (5) years. ( )

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Plumbing Bureau, Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ( )

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ( )

07. Fees. Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. ( )

08. Scope of Work Permitted. Permitted to disconnect, cap, remove, and reinstall within sixty (60) inches of original location: water heating appliance, water treating or filtering devices; air or space temperature modifying equipment which involves potable water; humidifier; temperature and pressure relief valves; condensate drains and indirect drains in one (1) and two (2) family residences only. Does not include installation, testing, or certifying of backflow prevention devices. Does NOT include any modification to the drain, waste or vent systems. Must comply with all Idaho State Plumbing laws and rules and the requirements of the Uniform Plumbing Code. ( )

019. WATER PUMP PLUMBING SPECIALTY LICENSE.
The purpose of this section is to set out the special types of plumbing installations for which a water pump plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ( )

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611, Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

03. Minimum Experience Requirements. ( )

a. Experience gained by an individual while engaged in the practice of water pump plumbing specialty shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ( )

b. All qualified water pump plumbing specialty journeymen shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ( )

c. Water pump plumbing specialty contractors must have a two thousand dollars ($2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of water pump plumbing specialty contractor's test. ( )

d. Water pump specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of twelve (12) hours of approved, related training classes and successful completion of the water pump plumbing specialty journeyman's test. ( )

e. Water pump plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed approved related training classes and maintain state registration. ( )

04. Special Grandfathering Provision. ( )

a. Contractor: In lieu of the thirty (30) month minimum journeyman experience requirement, an individual may use three (3) years experience of owning and operating a business where this specialty applies and satisfactory completion of twenty-four (24) hours of approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least three (3) years. ( )

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use three (3) years experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least three (3) years. ( )

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Plumbing Bureau, Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ( )

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ( )

07. Fees. Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. ( )

08. Scope of Work Permitted. Permitted to install and connect water service piping from pump to storage expansion pressure tank in one (1) and two (2) family residences only. Does not include installation, testing or certifying of backflow prevention devices. Must comply with all Idaho State Plumbing laws and rules and the requirements of the Uniform Plumbing Code. ( )

020. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

DOCKET NO. 07-0313-9801

NOTICE OF VACATION OF PROPOSED RULE-MAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Section 44-2504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

The Mobile Home Rehabilitation Checklist -- Compliance Certificate form needed clarification and references to electrical and plumbing inspector sign offs need to be deleted as they are not requirements of the act.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Jack Rayne, Manager of Building Bureau, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

DATED this 12th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950
fax (208) 334-2683

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

DOCKET NO. 07-0313-9801

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the rule-making previously initiated under this docket. The action is authorized pursuant to Section 44-2504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rescission:

The Mobile Home Rehabilitation Checklist -- Compliance Certificate form needed clarification and references to electrical and plumbing inspector sign offs need to be deleted as they are not requirements of the act.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission, contact Jack Rayne, Manager of Building Bureau, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

DATED this 12th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950
fax (208) 334-2683

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

DOCKET NO. 07-0313-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective September 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has temporary/proposed rule-making. The action is authorized pursuant to Section 44-2504, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

This proposed rule will serve to explain the criteria and procedures associated with the rehabilitation of mobile homes intended for relocation into or within the state of Idaho after September 1, 1998.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary/proposed rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before October 28,1998.

DATED this 26th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3442/fax (208) 334-2683

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0313-9802

IDAPA 07
TITLE 03
Chapter 13

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

000. LEGAL AUTHORITY.

In accordance with Section 44-2504, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapter 25, Idaho Code, otherwise known as the Mobile Home Rehabilitation Act. (9-1-98)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.13, "Rules Governing Mobile Home Rehabilitation," Division of Building Safety. (9-1-98)T

02. Scope. These rules shall apply to the rehabilitation of mobile homes constructed prior to June 15, 1976, intended for relocation into a city or county requiring an installation permit pursuant to Section 44-2202, Idaho Code. (9-1-98)T

a. Before a permit for the installation of the mobile home may be issued, the home must meet the rehabilitation requirements specified in this chapter and receive a certificate of compliance from the administrator of the Idaho Division of Building Safety. (9-1-98)T

b. Upon submission of the rehabilitation form required pursuant to Section 44-2504, Idaho Code, and any other information required by the administrator to establish compliance with this chapter, the administrator shall issue a certificate of compliance to the homeowner. The certificate of compliance must be presented to the local jurisdiction before a permit for the installation of the home may be issued. (9-1-98)T

c. Upon receipt of the certificate of compliance, the local jurisdiction shall issue the installation permit in the same manner as the permit would be issued with respect to a mobile/manufactured home for which rehabilitation is not required. No zoning or other ordinance or policy of the local jurisdiction prohibiting relocation or installation of a mobile home to which this chapter applies shall be effective to prohibit the relocation or installation of a mobile home for which a certificate of compliance has been issued in accordance with this rule. (9-1-98)T

002. WRITTEN INTERPRETATIONS.

The Division may from time to time provide legal opinions regarding these rules. To the extent not privileged, these documents will be made available for inspection at the Division's main office, 277 North 6th Street, Boise, Idaho. (9-1-98)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative relief of the provisions contained herein. (9-1-98)T

004. DEFINITIONS.

01. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (9-1-98)T

02. Division. The Division of Building Safety for the state of Idaho. (9-1-98)T

03. Local Unit of Government. A city or county within Idaho which has enacted ordinances which regulate the siting or installation of mobile homes. (9-1-98)T

04. Mobile Home. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (H.U.D. code). (9-1-98)T

005. -- 010. (RESERVED).

011. REHABILITATION REQUIREMENTS.
The mobile home shall meet the following rehabilitation requirements: (9-1-98)T

01. Smoke Detectors. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side and, when located in a hallway, the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing and the top of the detector shall be located on a wall four (4) inches to twelve (12) inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector. (9-1-98)T

02. Gas Furnace and Water Heater Compartment Protection. The walls, ceilings and doors of each compartment containing a gas-fired furnace or water heater shall as a minimum be lined with five-sixteenth (5/16) inch gypsum board, unless the compartment access door opens to the exterior of the home, in which case, the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home. (9-1-98)T

03. Egress From Sleeping Areas. Each room designated expressly for sleeping purposes shall have an exterior exit door or at least one (1) outside egress window or other approved exit device with a minimum clear dimension of twenty-two (22) inches and a minimum clear opening of five (5) square feet. The bottom of the exit shall not be more than thirty-six (36) inches above the floor. (9-1-98)T

04. Electrical System Testing. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated twenty (20) amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (copper/aluminum or copper clad aluminum) must be connected in accordance with Section 110-14 of the National Electrical Code. (9-1-98)T

05. Gas System Testing. The mobile home's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least six (6) inch mercury or three (3) psi gauge for a period of not less than ten (10) minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than one-tenth (1/10) pound or an equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than ten (10) inches nor more than fourteen (14) inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or a bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with the latest state adopted mechanical code. (9-1-98)T

06. Water System Testing. A full water or air pressure test will be performed on the mobile home's water and sewer system. (9-1-98)T

a. Water piping shall be tested and proven tight under a water pressure not less than the working pressure under which it is to be used. The water used for tests shall be obtained from a potable source of supply. A fifty (50) pound per square inch (344.5kPa) air pressure may be substituted for the water test. In either method of test, the piping shall withstand a test without leaking for a period of not less than fifteen (15) minutes. (9-1-98)T

b. A water test shall be applied to the drainage and vent system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except at the highest opening, and the system filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest opening of the section under the test and each section shall be filled with water, but no section shall be tested with less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the next preceding section shall be tested, so that no joint or pipe in the structure, except the uppermost ten (10) feet of the system, shall have been submitted to a test of less than a ten (10) foot head of water. The water shall be kept in the system or in the portion under testing for at least fifteen (15) minutes before inspection starts. The

system shall be tight at all points. (9-1-98)T

07. Requirements For Obtaining Certificates of Compliance. All repairs or other work necessary to bring the mobile home into compliance with requirements of this section shall be completed before a certificate of compliance may be issued by the Division. (9-1-98)T

012. REHABILITATION FORM AND CHECKLIST -- COMPLIANCE CERTIFICATE.

01. Rehabilitation Checklist. The rehabilitation form will be completed and signed by an authorized representative of an Idaho licensed manufactured home service company or installer or dealer holding an installer's license. Electrical, gas, water and sewer inspections and any necessary repairs must be performed by a person or company properly licensed and authorized to perform the work under Idaho law, with the person or company performing the inspections and repairs to be noted on the rehabilitation form. The term "Inspections" in the context of this section is intended to mean testing of the various electrical, gas, water and sewer systems. A properly completed rehabilitation form shall be presented to the Division of Building Safety before a certificate of compliance may be issued. (9-1-98)T

02. Rehabilitation Checklist and Compliance Certification Form. The following is the official rehabilitation checklist and compliance certificate: (9-1-98)T

IDAHO DIVISION OF BUILDING SAFETY
MANUFACTURED HOUSING SECTION
277 N 6TH ST, SUITE 100
PO BOX 83720
BOISE, ID 83720-6001
(208) 334-3896

FOR DIVISION USE ONLY
Compliance Certificate Issued
By: ____________
Title: ____________
Date: ____________

MOBILE HOME REHABILITATION CHECKLIST -- COMPLIANCE CERTIFICATE (TITLE 44 CHAPTER 25 IDAHO CODE)

These rehabilitation/testing requirements are applicable only to non-HUD mobile homes manufactured prior to June 15, 1976. Separate permits and inspections may be required for repairs made to plumbing or electrical systems. Additional permits may be required by the local authority having jurisdiction in order to do any work or make any repairs on the mobile home not involving plumbing or electrical systems. You should check with your local building department to determine the need for permits and inspections before initiating any repair work or before installing your mobile home at a new site. Rehabilitating a mobile home in accordance with the minimum requirements of Title 44 - Chapter 25 Idaho Code does not imply or assure the home's full compliance with HUD Manufactured Home Construction and Safety Standards or current Idaho adopted Electrical or Plumbing Codes.

The undersigned installer/service company representatives, electrical or plumbing contractors attest and verify that rehabilitative repairs and testing have been completed in accordance with Title 44 - Chapter 25 Idaho Code:

1. Smoke Detection — ____ Licensed Installer/Service Co. Representative — ____ Installer/Service Co. License # — ____ Date

2. Egress Windows/Exterior Exit Doors From All Sleeping Areas — ____ Licensed Installer/Service Co. Representative — ____ Installer/Service Co. License # — ____ Date

3. Fire Protection of Gas Water Heater/ Furnace Compartments — Home is equipped with gas water heater or furnace. ____ Yes ____ No

   Verified or Repaired By — ____ Licensed Installer/Service Co. Representative — ____ Installer/Service Co. License # — ____ Date

4. Gas System Testing/Repairs — Home has gas appliances. ____ Yes ____ No

   If Yes, Testing Performed By — ____ Licensed Installer/Srvc Co. — ____ License # — ____ Date — ____ Gas Utility — ____ Date

   Repairs (If Required) Made By — ____ Licensed Installer/Service Co. Representative — ____ License # — ____ Date

5. Electrical System Testing Performed By — ____ Licensed Electrical Contractor — ____ License # — ____ Date

   Repairs (If Required) Made By — ____ Licensed Electrical Contractor — ____ License # — ____ Permit # — ____ Date

6. Water/DWV System Test. Performed By — ____ Licensed Plumbing Contractor — ____ License # — ____ Date

   Repairs (If Required) Made By — ____ Licensed Plumbing Contractor — ____ License # — ____ Permit # — ____ Date

HOMEOWNER: ____________ HOME SERIAL NO: ____________
HOMEOWNER BUSINESS TELEPHONE: ____________
HOMEOWNER BUSINESS ADDRESS: ____________
LOCATION OF HOME AT TIME OF REHABILITATION/TESTING: ____________

MHRF-1R
8/98

RETURN ENTIRE COMPLETED FORM TO ABOVE DIVISION ADDRESS

Original - Homeowner   Yellow - Local Jurisdiction   Pink - Idaho Bldg. Div.

013. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

DOCKET NO. 07-0313-9803

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 44-2504, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

The proposed rule would allow the Division to charge a $40 administrative fee for each Mobile Home Rehabilitation Checklist--Compliance Certificate requested from the Division.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The proposed fee would allow the Division to charge a $40 administrative fee for each Mobile Home Rehabilitation Checklist--Compliance Certificate requested from the Division.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary/proposed rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before October 28,1998.

DATED this 26th day of August, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3442/fax (208) 334-2683

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0313-9803

013. ADMINISTRATIVE FEES.
In accordance with Section 44-2504(2), Idaho Code, an administrative fee of forty dollars ($40) will be charged for each request for a Mobile Home Rehabilitation Checklist -- Compliance Certificate form from the Division. ( )

01~~3~~4. -- 999. (RESERVED).

IDAPA 09 - DEPARTMENT OF LABOR

09.05.01 - RULES GOVERNING WAGE COLLECTION PROCEEDINGS

DOCKET NO. 09-0501-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 72-1333(2), Idaho Code, and Title 67, Chapter 52, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any change.

This chapter is being repealed in its entirety. The pending rules are being adopted as proposed. The original text of the proposed and temporary rule was published in the Idaho Administrative Bulletin, Volume 98-7, page 59.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kenneth R. Flatt, Labor Relations Supervisor, Department of Labor, 208/332-7452.

DATED this August 26, 1998.

Roger B. Madsen, Director
Department of Labor
317 Main Street
Boise, ID 83735
Fax: 208/334-6430

IDAPA 09
TITLE 05
Chapter 01

RULES GOVERNING WAGE COLLECTION PROCEEDINGS

There are no substantive changes from the proposed rule text.
This rule was adopted by the agency as a temporary rule.
This rule is being repealed in its entirety.

The original text of the proposed and temporay rule was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, page 59.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 09 - DEPARTMENT OF LABOR

09.05.02 - RULES GOVERNING PRATICE AND PROCEDURE BEFORE THE WAGE AND HOUR SECTION

DOCKET NO. 09-0502-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333(2), Idaho Code, and Title 67, Chapter 52, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any change.

This chapter is being repealed in its entirety. The pending rules are being adopted as proposed. The original text of the proposed and temporary rule was published in the Idaho Administrative Bulletin, Volume 98-7, page 60.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kenneth R. Flatt, Labor Relations Supervisor, Department of Labor, 208/332-7452.

DATED this August 26, 1998.

Roger B. Madsen, Director
Department of Labor
317 Main Street
Boise, ID 83735
Fax: 208/334-6430

IDAPA 09
TITLE 05
Chapter 02

**RULES GOVERNING PRATICE AND PROCEDURE
BEFORE THE WAGE AND HOUR SECTION**

**There are no substantive changes from the proposed rule text.
This rule was adopted by the agency as a temporary rule.
This rule is being repealed in its entirety.**

The original text of the proposed and temporay rule was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, page 60.

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT

DOCKET NO. 12-0108-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 30-1448, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

This rule-making adopts certain uniform guidelines used by most states in reviewing certain securities offerings.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking confers a benefit upon securities issuers by allowing Idaho to fully participate in the state's Coordinated Equity Review program. It also provides more guidance to issuers and the Department as to the offering terms acceptable in Idaho. The rulemaking also makes several minor changes and corrections to the existing rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because industry comment was solicited for these guidelines by the North American Securities Administrators Association, Inc. prior to their adoption by that association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marilyn T. Scanlan, Bureau Chief, (208) 332-8070.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 26th day of August, 1998.

Marilyn T. Scanlan
Bureau Chief
Department of Finance
Securities Bureau
700 W. State, 2nd Floor
P. O. Box 83720
Boise, Idaho 83720-0031
Phone: (208) 332-8070
Fax: (208) 332-8099

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0108-9801

002. WRITTEN INTERPRETATIONS--AGENCY ACCESS--FILINGS (Rule 2).
Written interpretations of these rules are available by mail from the Department of Finance, ~~Statehouse Mail~~ P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Department of Finance, Joe R. Williams Building, 700 West State Street, Boise, Idaho. The telephone numbers of the agency include (208) ~~334-3313~~ 332-8000, Administration; and (208) ~~334-3678~~ 332-8004, Securities Bureau. The telephone number of the facsimile machine is (208) ~~334-2216~~ 332-8099. All filings with the agency in connection with rule-making or contested cases shall be made with the Director of the Department of Finance, and shall include an original and one (1) copy. ~~(7-1-93)~~(11-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

040. EXAMINATION REQUIREMENTS (Rule 40).
Idaho Code Section 30-1407. (7-1-93)

01. Salesmen. The form of the written examination required as a condition of registration of new and transfer salesmen, after January 1, 1987, shall be the form as adopted and given by the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Boston Stock Exchange, the Pacific Coast Stock Exchange, the Philadelphia Stock Exchange, the NASD, or the S.E.C.O., and in addition to the above, the NASAA USASLE, commonly known as USASLE, or Series 63. (7-1-93)

~~02. Broker/Dealer - Qualifying Officer. The form of the written examination required as a condition of registration of broker-dealers shall be the form as adopted for the principal's examination by one of the above listed exchanges or the NASD and a minimum grade of seventy percent (70%) on the NASAA USASLE, commonly known as USASLE or Series 63. (7-1-93)~~

0~~3~~2. Investment Adviser - Qualifying Officer. The form of written examination required as a condition of registration of investment advisers, after January 1, 1992, shall be a minimum grade of eighty-five percent (85%) on the NASAA UIALE, commonly known as UIALE or Series 65. (7-1-93)

0~~4~~3. Investment Adviser Representative. Applicants for registration as investment adviser representatives shall pass the Series 65 examination. (7-1-93)

0~~5~~4. Waiver. The Director, in his absolute discretion, may waive any examination required by this rule upon a sufficient showing of good cause and upon any conditions he may impose. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

~~**080. PART-TIME SALESMAN (Rule 80).**~~
~~Idaho Code Section 30-1408. An applicant for registration as securities salesman who does not plan to devote full time to the position, shall submit a letter from his present employer granting permission to engage as a part-time securities salesman. (7-1-93)~~

08~~1~~0. NOTIFICATION OF OUTSIDE BUSINESS ACTIVITIES--SELLING AWAY (Rule 8~~1~~0).
Idaho Code Section 30-1413. Any salesman or investment adviser representative associated with a broker-dealer or investment adviser registered under this Act shall not engage in business activities, for which he receives compensation either directly or indirectly, outside the scope of his regular employment unless he has provided prior written notice to his employer firm. (7-1-93)

08~~2~~1. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~140. OPTIONS AND WARRANTS (Rule 140).~~
~~Idaho Code Section 30-1423(8). Applications for the registration of securities are subject to the following: (7-1-93)~~

~~01. General. Warrants or stock purchase options, and all other rights to acquire stock or other securities must be justified by the applicant notwithstanding any of the following provisions. (7-1-93)~~

~~02. Percent Limitation. Unless good cause for an exception is shown, options to purchase shares, excluding options to employees specified in Subsections 140.06 and 140.07 of this rule, shall not be in excess of ten percent (10%) of the common shares to be outstanding, if the entire public offering is sold. (7-1-93)~~

~~03. Five (5) Year Limitation. Unless good cause for an exception is shown, an option to purchase shares shall not be exercisable after the expiration of five (5) years from the date such option is granted. (7-1-93)~~

~~04. Options to Underwriters, Promoters, Officers, Directors and Other Associated Persons. Ordinarily options to underwriters, promoters, officers, directors and other associated persons as compensation, in whole or in part, for the sale of securities will be considered with disfavor, unless: (7-1-93)~~

~~a. Selling expenses, commissions, and discounts, including the value of such options to be issued, are not unreasonable. (7-1-93)~~

~~b. The aggregate number of shares subject to the exercise of options including options issued to underwriters should not exceed the ten percent (10%) limitation contained in Subsection 140.02 of this rule. (7-1-93)~~

~~c. They are issued to the managing underwriter under a firm underwriting agreement and are not assignable or transferable, except between partners of the managing underwriter. (7-1-93)~~

~~d. The initial exercise price of the options is at least equal to the public prospectus with a "step up" of the exercise price of ten percent (10%) each year they are outstanding. (7-1-93)~~

~~e. The option or warrants are issued by a relatively small company in the promotional stage where it appears from all of the facts and circumstances that the issuance of such options is necessary to obtain competent investment banking service, provided that the direct commissions to the underwriters are lower than the usual and customary commissions would be, in the absence of such options or warrants. (7-1-93)~~

~~05. Selling Shareholder. The same tests shall be applied to options issued by selling shareholders as have been set out above unless evidence indicates that the selling shareholders are so separated from the corporate entity and so lacking in control of the corporate entity as to require more liberal treatment. (7-1-93)~~

~~06. Restricted or Qualified Stock Options. Restricted stock options or qualified stock options to employees which qualify under the provisions of the United States Internal Revenue Code will be considered justified if reasonable in number and method of exercise. (7-1-93)~~

~~07. Other Employees' Options. Options to employees or their nominees pursuant to stock purchase funds or profit sharing plans will be considered justified if reasonable in number and method of exercise. (7-1-93)~~

14~~1~~0. -- 149. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~**180. ESCROW (Rule 180).**~~
~~Idaho Code Section 30-1428. Promotional shares may be required to be placed in escrow with an escrow holder first to be approved by the Director.~~ ~~(7-1-93)~~

~~01. Consent to Transfer. Escrowed shares or any interest therein shall not be sold or transferred until the written consent of the Director shall have been first obtained.~~ ~~(7-1-93)~~

~~02. Waivers. Promotional shares shall carry a waiver of dividend rights and rights to participate in the distribution of assets in the event of liquidation or dissolution in favor of the shareholders who have paid cash or its equivalent for their shares. Such waivers shall remain in effect so long as the Director requires.~~ ~~(7-1-93)~~

~~03. Voting Rights. Promotional securities of a new enterprise selling and issuing a single class of securities for financing purposes shall have no greater voting rights than the securities issued for cash or its equivalent.~~ ~~(7-1-93)~~

~~**181. -- 199. (RESERVED).**~~

~~**200. IMPOUND OF FUNDS (Rule 200).**~~
~~Idaho Code Section 30-1428(2).~~ ~~(7-1-93)~~

~~01. Use of Depository. Whenever the Director orders the impound of funds pursuant to provisions of the Act, checks for the payment of securities shall be made payable to the depository. The depository shall release the percentage not subject to the impound to the issuer. In addition to the requirements of disclosure of the impound agreement in the prospectus, the prospectus shall contain a statement that checks shall be made payable to the named depository and a concise statement that the named depository is performing the limited function of depository and this fact in no way means that the depository has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security or transaction.~~ ~~(7-1-93)~~

~~02. Release of Funds from Impound. In order to release funds impounded under the provisions of the Act, the following must be submitted to the Director:~~ ~~(7-1-93)~~

~~a. A letter from the depository stating the amount of money that has been deposited in the impound fund.~~ ~~(7-1-93)~~

~~b. A sworn statement from the issuer that all the amounts specified by the impound agreement have been deposited in that fund and that no proceeds from the sales of the securities, except the amount not subject to the impound agreement, have been expended; and, a complete explanation as to the proposed use of the proceeds when and if they are released.~~ ~~(7-1-93)~~

~~201~~<u>180</u>. -- 209. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

<u>231. ADOPTION OF NASAA STATEMENT OF POLICY (Rule 231).</u>

<u>0l. Statements of Policy for Offerings Registered. The following North American Securities Administrators Association (NASAA) Statements of Policy for offerings registered pursuant to Sections 30-1420 and 30-1423, Idaho Code, are adopted:</u> <u>(11-1-98)T</u>

<u>a. Loans and other material affiliated transaction, as adopted with amendments through November 18, 1997;</u> <u>(11-1-98)T</u>

b. Options and warrants, as adopted with amendments through November 18, 1997; (11-1-98)T

c. Corporate securities definitions, as adopted April 27, 1997; (11-1-98)T

d. Impoundment of proceeds, as adopted with amendments through April 27, 1997; (11-1-98)T

e. Preferred stock, as adopted with amendments through April 27, 1997; (11-1-98)T

f. Promotional shares, as adopted November 18, 1997; (11-1-98)T

g. Promoters' equity investment, as adopted with amendments through April 27, 1997; (11-1-98)T

h. Specificity in use of proceeds, as adopted April 27, 1997; (11-1-98)T

i. Underwriting expenses, underwriter's warrants, selling expenses, and selling securities holders, as adopted with amendments through April 27, 1997; (11-1-98)T

j. Unsound, financial condition, as adopted April 27, 1997; and (11-1-98)T

k. Unequal voting rights, as adopted October 24, 1991. (11-1-98)T

02. Compliance With Requirements. An offering registering pursuant to Sections 30-1420 and 30-1423, Idaho Code, that falls within one (1) or more of the statements of policy listed in Subsection 231.01 of this Section must comply with the requirements of said statement of policy or policies. (11-1-98)T

03. Publications of Statements of Policy. The statements of policy referred to in Subsection 231.01 of this Section are found in CCH NASAA Reports published by Commerce Clearing House. Copies are also available at the Idaho Department of Finance. (11-1-98)T

23~~1~~2. -- 2~~3~~49. (RESERVED).

~~**240. PROMOTIONAL SECURITIES (Rule 240).**~~
~~Idaho Code Section 30-1431(9).~~ ~~(7-1-93)~~

~~01. Valuation of Consideration. Securities issued for services rendered, patents, copyrights or other intangibles, the value of which has not been established to the satisfaction of the Director by means such as an established earning record, or which are issued for a monetary consideration substantially lower than the consideration for which shares are sold for principal financing purposes, may be treated as promotional securities. The amount of promotional stock will be determined by facts and circumstances in each particular application, but ordinarily issuance of promotional shares will be restricted to such quantity as will tend to establish an ultimate equality of participation between shares sold for cash, or its equivalent, and promotional shares.~~ ~~(7-1-93)~~

~~02. Limitations. Promotional securities shall ordinarily be limited in class to common shares and in no event should represent an ultimate right of participation in excess of fifty percent (50%).~~ ~~(7-1-93)~~

~~**241. -- 249. (RESERVED).**~~

(BREAK IN CONTINUITY OF SECTIONS)

280. RECOGNIZED SECURITIES MANUALS (Rule 280).
Idaho Code Section 30-1435(1). (7-1-93)

01. Manuals. The following securities manuals are recognized under the provisions of the Act: Standard and Poor's Corporation Records and Daily News Section, Moody's Manuals, Walkers Manual of Western

Corporations, Best's Life Insurance, Best's Insurance. (7-1-93)

02. Exemption Timing. The exemption shall not be available for any security until ninety (90) days after the initial public offering of such security by the issuer or an underwriter unless the offering was either registered under this Act or was otherwise exempt. (7-1-93)

03. Conditions of Exemption. The exemption is available only ~~o~~if the issuer has been in business for at least twelve (12) months and the manual contains all of the information required by statute. ~~(7-1-93)~~(11-1-98)T

04. Unit Investment Trust. This exemption is also available if the issuer is a unit investment trust registered under Section 8 of the Investment Company Act of 1940 and has a sponsor that has at all times throughout the three (3) years before an offer or sale of a security hereunder claimed to be exempt sponsored one (1) or more registered unit investment trusts, the aggregate total assets of which have exceeded one hundred million dollars ($100,000,000). (7-1-93)

05. Blind Pools. This exemption is not available if there has been a buyout of, consolidation with or merger of the business with a "shell," "blank check," or "blind pool" company, or a change in corporate purpose of the issuer for the purpose of avoiding the registration requirements under this Act. If there has been a merger with a "shell," "blank check," or "blind pool" company, it is presumed to be for the purpose of avoiding registration requirements. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

340. RENEWAL OF REGISTRATIONS OF BROKER-DEALERS, SALESMEN, INVESTMENT ADVISERS OR INVESTMENT ADVISER REPRESENTATIVES; NOTICE OF NAME CHANGES (Rule 340).

Idaho Code Sections 30-1410 and 30-1411. (7-1-93)

01. Applications Prior to Expiration. The purpose of this rule is to make clear the requirement that an application for the renewal of the registration of a broker-dealer, salesman, investment adviser, or investment adviser representative must be filed with the Department before the registration expires, which is the thirty-first (3lst) day of December next following such registration, per the provisions of Sections 30-1410 and 30-1411, Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the broker-dealer, salesman, investment adviser, or adviser representative to reapply for registration with the Department in accordance with the requirements of the Act. (7-1-93)

02. Change of Name. If a registered broker-dealer or investment adviser desires to change its name, ~~in connection with a renewal, written~~ notice of such an intent must be submitted to the Department ~~in writing, at least thirty (30) days before it will be allowed to renew its registration utilizing the new name. Any desired name change, not in connection with a renewal, must be submitted to the Department in writing~~ either before or within a reasonable time after the effective date of the change. ~~However, t~~The name change will not be effective in this state until the notice is received. Any notice of a name change~~, whether in connection with a renewal or otherwise,~~ must include a copy of the rider to be attached to the ~~broker-dealer's or~~ investment adviser's surety bond, if such bond is required, reflecting the name change. ~~(7-1-93)~~(11-1-98)T

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 26-3105(5),

PUBLIC HEARING SCHEDULE: A public hearing concerning this rule-making will be held as follows:

Thursday, October 22, 1998, 9:00 a.m. to 11:00 a..m.
Idaho Department of Finance
700 West State Street, 2nd Floor, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule will give definition to the broad requirements of the RMPA. This will enable companies to comply with RMPA's requirements, and will enable the Department to determine whether companies are complying with the requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Temporary adoption of these rules is appropriate as they will protect the public welfare. Licensees subject to these rules handle significant consumer transactions (home mortgages) and these rules will provide consumer safeguards as well as guidance to the industry.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

None

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because public comment is being sought through written comments and a public hearing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marilyn T. Scanlan, Bureau Chief, (208) 332-8070.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 26th day of August, 1998.

Marilyn T. Scanlan, Bureau Chief
Department of Finance - Securities Bureau
700 W. State Street, 2nd Floor
P. O. Box 83720
Boise, Idaho 83720-0031
Phone (208) 332-8070 / Fax (208) 332-8099

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-9801

IDAPA 12
TITLE 01
Chapter 10

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

000. LEGAL AUTHORITY (Rule 0).
This chapter is promulgated pursuant to Section 26-3105(5), Idaho Code. (11-1-98)T

001. TITLE AND SCOPE (Rule 1).
The title of this chapter is "Rules Pursuant to the Idaho Residential Mortgage Practices Act" of the Idaho Department of Finance and may be cited as IDAPA 12.01.10. These rules implement the Residential Mortgage Practices Act, Title 26, Chapter 31. (11-1-98)T

002. WRITTEN INTERPRETATIONS-AGENCY ACCESS-FILINGS (Rule 2).
Written interpretations of these rules are available by mail from the Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Department of Finance, Joe R. Williams Building, 700 West State Street, Boise, Idaho. The telephone numbers of the agency include (208) 332-8000 - Administration; and (208) 332-8004 - Residential Mortgage. The telephone number of the facsimile machine is (208) 332-8099. All filings with the agency in connection with rule-making or contested cases shall be made with the Director of the Department of Finance, and shall include an original and one (1) copy. (11-1-98)T

003. ADMINISTRATIVE APPEALS (Rule 3).
Administrative appeals are not available within the agency. (11-1-98)T

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).
All rules contained in this chapter are public records. (11-1-98)T

005. -- 009. (RESERVED).

010. TRUST ACCOUNT (Rule 10).

01. Establishment of Trust Account for Borrower Funds to Pay Third-Party Providers. Each licensee shall, as trustee, hold all funds received on behalf of borrowers for payment to third-party providers. The funds may not be used for the benefit of the licensee or any person not entitled to such benefit. Each licensee shall establish a trust account(s) for the funds in a financial institution's branch located in this state. Each licensee is responsible for depositing, holding, disbursing, accounting for, and otherwise dealing with the funds, in accordance with these rules. (11-1-98)T

02. Designation of Trust Account(s). Each account holding borrower funds to pay third-party providers must be designated as a trust account in the name of the licensee as it appears on its license. All checks must be prenumbered by the supplier (printer) and bear upon the front of the check the identifying words, "trust account ". (11-1-98)T

03. Required Trust Account Records and Procedures. Unless alternative records or procedures for use by the licensee are approved in advance by the director, each licensee shall maintain as part of its book and records: (11-1-98)T

a. A trust account deposit register and copies of all validated deposit slips or signed deposit receipts for each deposit to the trust account; (11-1-98)T

b. A ledger for each trust account. Each ledger must contain a separate subaccount ledger sheet for each borrower from whom funds are received for payment of third-party providers. Each receipt and disbursement pertaining to such funds must be posted to the ledger sheet at the time the receipt or disbursement occurs. Entries to each ledger sheet must show the date of deposit, identifying check or instrument number, amount and name of remitter. Offsetting entries to each ledger sheet must show the date of check, check number, amount of check, name of payee and invoice number if any. Canceled or closed ledger sheets must be identified by time period and borrower name or loan number; (11-1-98)T

c. A trust account check register consisting of a record of all deposits to and disbursement from the trust account; (11-1-98)T

d. Reconciled trust account bank statements; (11-1-98)T

e. A monthly trial balance of the ledger of trust accounts, and a reconciliation of the ledger of trust accounts with the related bank statement(s) and the related check register(s). The reconciled balance of the trust account(s) must at all times equal the sum of: (11-1-98)T

i. The outstanding amount of funds received from borrowers for payment of third-party providers; and (11-1-98)T

ii. The outstanding amount of any deposits into the trust account of the licensee's own funds. (11-1-98)T

f. A printed and dated source document file to support any changes to existing accounting records. (11-1-98)T

04. Trust Account Deposit Requirements. (11-1-98)T

a. All funds received from borrowers or on behalf of borrowers for the payment of third-party providers, whether specifically identified as such or not, and regardless of when they are received, must be deposited in the trust account(s) prior to the end of the next business day following receipt. In order to satisfy this requirement in regard to the deposit of a check or money order, the licensee must within one business day after receipt of the check or money order; (11-1-98)T

i. Endorse the check or money order "for deposit only" with the licensee's trust account number and mail the check postage prepaid to its financial institution; or (11-1-98)T

ii. Endorse the check or money order "for deposit only" with the licensee's trust account deposit number and mail the check or money order postage prepaid to the main office of the licensee. The main office shall, in turn, deposit the check or money order in its financial institution prior to the end of the next business day after receipt of the check or money order in the main office; or (11-1-98)T

iii. Deposit the check or money order into its trust account by depositing it directly at the branch where its trust account is held or at an ATM of its financial institution. (11-1-98)T

b. All deposits to the trust account(s) must be documented by a bank deposit slip which has been validated by bank imprint, or by an attached deposit receipt which bears the signature of an authorized representative of the licensee indicating that the funds were actually deposited into the proper account(s). (11-1-98)T

c. Receipt of funds by wire transfer or any means other than cash, check or money order, must be posted in the same manner as other receipts. Any such transfer of funds must include a traceable identifying name or number supplied by the financial institution or transferring entity. The licensee must also retain a receipt for the deposit of the funds which must contain the traceable identifying name or number supplied by the financial institution or transferring entity. (11-1-98)T

d. Deposits to the trust account(s) must be limited to funds delivered to the licensee for payment to

third-party providers, except a licensee may deposit its own funds into the trust account(s) to prevent a disbursement in excess of an individual borrower's subaccount, provided that the exact sum of deficiency is deposited and detailed records of the deposit and its purpose are maintained in the trust ledger and the trust account(s) check register. Any deposits of the licensee's own funds into the trust account(s) must be held in trust in the same manner as funds paid by borrowers for the payment of third party providers and treated accordingly. (11-1-98)T

e. If a licensee has deposited its own funds into its trust account, the licensee may receive reimbursement for such deposit at closing into its general business bank account provided: (11-1-98)T

i. All third-party provider's charges associated with the licensee's deposit have been paid; (11-1-98)T

ii. The HUD 1 Settlement Statement provided to the borrower clearly reflects the line item, "deposit paid by broker," and the amount deposited; (11-1-98)T

iii. The HUD 1 Settlement Statement provided to the borrower clearly reflects the line item, "reimbursement to broker for funds advanced," and the amount reimbursed; and (11-1-98)T

iv. Any funds disbursed by escrow at closing to the licensee for payment of unpaid third-party providers' expenses charged to the licensee are deposited into the borrower's subaccount of the licensee's trust account. (11-1-98)T

05. Trust Account Disbursement Requirements. (11-1-98)T

a. Each licensee is responsible for the disbursement of all trust account funds, whether disbursed by personal signature, signature plate, or signature of another person authorized to act on the licensee's behalf. (11-1-98)T

b. All disbursements of trust funds must be made by check, drawn on the trust account, and identified on the check as pertaining to a specific third-party provider transaction or borrower refund, except as specified in this section. The number of each check, amount, date, and payee must be shown in the trust account(s) check ledger as written on the check. (11-1-98)T

c. Disbursements may be made from the trust account(s) for the payment of bona fide third-party providers' services rendered in the course of the borrower's loan origination, if the borrower has consented in writing to the payment. Such consent may be given at any time during the application process and in any written form, provided that it contains sufficient detail to verify the borrower's consent to the use of trust funds. No disbursement on behalf of the borrower may be made from the trust account until the borrower's or licensee's deposit of sufficient funds into the trust account(s) is available for withdrawal. (11-1-98)T

d. If a borrower has more than one (1) loan application pending with a licensee, the licensee shall maintain a separate subaccount ledger for each loan application. The borrower must consent to any transfer of trust account funds between the individual subaccounts associated with these pending loan applications. The consent must be maintained in the borrower's loan file and reference in the borrower's subaccount ledger sheets. (11-1-98)T

e. Among other prohibited disbursements, no disbursement may be made from a borrower's subaccount: (11-1-98)T

i. In excess of the amount held in the borrower's subaccount (commonly referred to as a disbursement in excess); (11-1-98)T

ii. In payment of a fee owed to an employee of the licensee or in payment of an expense of the licensee; (11-1-98)T

iii. For payment of any service charges related to the management or administration of the trust account(s); (11-1-98)T

iv. For payment of any fees owed to the licensee by the borrower, or to transfer funds from the subaccount to any other account. (11-1-98)T

f. A licensee may, in the case of a closed and funded transaction, transfer excess funds remaining in the individual borrower's subaccount into the licensee's general business bank account upon determination that all third-party providers' expenses have been accurately reported in the loan closing documents and have been paid in full and that the borrower has received credit in the loan closing document for all funds deposited in the trust account. Each licensee shall maintain a detailed audit trail for any disbursements from the borrower's subaccount(s) into the licensee's general business bank account, including documentation in the form of a final HUD-l Settlement Statement form showing the credit has been received by the borrower in the closing and funding of the transaction. The disbursements must be made by a check drawn on the trust account and deposited directly into the licensee's general business bank account. (11-1-98)T

g. There shall be no erasures or white-out corrections in any of the trust account records (checks, deposits, ledgers, subledgers, bank statements or reconcilements). All corrections shall be done by drawing a single line through the erroneous entry, leaving it legible, and making an entirely new entry to replace it. (11-1-98)T

h. Borrower funds held by the licensee must be remitted to the borrower within five (5) business days of the determination that all payments to third-party providers owed by the borrower have been satisfied. (11-1-98)T

i. Any trust funds held by the licensee for a borrower who cannot be located must be remitted in compliance with Section 14-506, Idaho Code. (11-1-98)T

06. Computerized Accounting System Requirements. The following requirement apply to computerized accounting systems: (11-1-98)T

a. The system must provide the capability to back-up data files; (11-1-98)T

b. Each computer generated trust account deposit register, trust account check register, and each trial balance ledger must be printed at least once per month and retained as part of a licensee's books and records. Each borrower subaccount ledger must also be printed at the closure of each subaccount and retained as part of a licensee's books and records; and (11-1-98)T

c. Computer generated reconciliation of the trust account must be performed and printed at least once each month and retained as a part of the licensee's books and records. (11-1-98)T

07. Automated Check Writing Systems. If a licensee uses a program which has the ability to write checks: (11-1-98)T

a. The check number must be pre-printed by the supplier (printer) on the check and on the voucher copy; (11-1-98)T

b. The program may assign suffixes or subaccount codes before or after the check number for identification purposes; (11-1-98)T

c. The check number must appear in the magnetic coding which also identifies the account number for readability by financial institution computers; and (11-1-98)T

d. All checks written must be included within the computer accounting system. (11-1-98)T

011. -- 029. (RESERVED).

030. CONVERSATION LOG - 3 (Rule 30).
Each licensee shall maintain a log of all contacts and conversations related to each applicant's residential mortgage loan transaction in each applicant's file that is retained with the file until final destruction. (Sections 26-3111, and 26-3112, Idaho Code.) (11-1-98)T

031. -- 039. (RESERVED).

040. DECEPTIVE ADVERTISING (Rule 40).

01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business. Deceptive advertising is defined to include the following practices by a licensee: (11-1-98)T

a. Making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or if the licensee does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. (11-1-98)T

b. Advertising without clearly and conspicuously disclosing the licensee's business name. (11-1-98)T

c. Engaging in bait advertising or misrepresenting, directly or indirectly the terms, conditions or and charges incident to the mortgage loan being advertised. Bait advertising, for these purposes, means an alluring, but insincere offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage loan on terms which the broker/banker cannot, does not intend, or want to provide, or which the broker/banker knows cannot be reasonably provided. Its purpose is to switch borrowers from buying the advertised mortgage loan product to buying a different mortgage loan product, usually at a higher rate or on a basis more advantageous to the broker/banker or lender. (11-1-98)T

d. The advertisement of "pre-approval," "immediate approval" of a loan application, or "immediate closing" of a loan, or words of similar import, such as "instant closing," without simultaneously disclosing the terms upon which such approval is based. (11-1-98)T

e. The advertisement of a "no point" mortgage loan when points are required or accepted by lender as a condition for commitment or closing. (11-1-98)T

f. The advertisement of an incorrect specific number of points required for commitment or closing. (11-1-98)T

g. The advertisement through such terms as "bad credit no problem" or "bankruptcy OK" or words of similar import or that an applicant will have unqualified access to credit without clearly and conspicuously disclosing the material limitations on the availability of credit that may exist, such as: (11-1-98)T

i. Requirements for the availability of credit (such as income, credit rating, home equity); (11-1-98)T

ii. That a higher interest rate or more points may be required for a customer with poor credit or marginal equity; (11-1-98)T

iii. That restrictions as to the maximum principal amount of the loan offered may apply; (11-1-98)T

iv. That an appraisal may be required; and (11-1-98)T

v. That there will be "no up front costs" or words of similar import without clearly and conspicuously describing the events that will lead to fees and costs. (11-1-98)T

h. The use of "avoid foreclosure" or words of similar import in an advertisement unless the advertisement also clearly and conspicuously discloses that: (11-1-98)T

i. The borrower must use loan funds to redeem or refinance the mortgage currently in foreclosure and take out a new mortgage loan; and (11-1-98)T

ii. The borrower may be required to pay interest rates significantly higher than what other borrowers not facing foreclosure might pay. (11-1-98)T

02. Advertising an address at which the licensee conducts no mortgage brokering or banking activities. (11-1-98)T

041. -- 049. (RESERVED).

050. WRITTEN DISCLOSURES-GOOD FAITH ESTIMATE AND TRUTH-IN-LENDING-DISCLOSURE (RULE 50).

01. Contract Between a Licensee and a Borrower. Every contract between a licensee and a borrower shall be in writing and shall contain the entire agreement of the parties. (11-1-98)T

02. Upon Receipt of a Loan Application. Upon receipt of a loan application, and before receipt of any moneys from an applicant, a licensee shall disclose to each applicant, in a form acceptable to the Director, information about the licensee, the services that a licensee may provide and the services that the licensee will provide. The licensee shall disclose in writing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specify the fee or fees which will inure to the benefit of the licensee, and such other disclosures as may be required by rule. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not determinable. The terms shall be disclosed in accordance with the requirements of the Federal Truth-in-Lending Act and its promulgated regulations. The disclosure shall inform the borrower that a mortgage will be placed on the home, that the mortgage may be foreclosed in case of nonpayment or delinquency and that the borrower has the legal right to rescind the transaction, except in the case of a purchase transaction. (11-1-98)T

03. Written Disclosure. The written disclosure shall contain the following information: (11-1-98)T

a. The annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate loan, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount and total interest to be paid, and an example of the payment terms resulting from an increase for a loan in the approximate amount of the loan that is being requested. Disclosure under this subsection shall be in print no smaller than twelve (12) point courier or ten (10) pitch. Disclosure in compliance with the requirements of the Federal Truth-in-Lending Act and Regulation Z shall be deemed to comply with the disclosure requirements of the rule. (11-1-98)T

b. The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection and any other third party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services in compliance with the requirements of the Federal Real Estate Settlement Procedures Act and Regulation X shall be deemed to comply with the disclosure requirements of this rule. (11-1-98)T

c. If applicable, at the time of application, the cost, terms, duration and conditions of a lock-in agreement, and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker, banker or lender. If a lock-in agreement has not been entered, disclosure must be made to the applicant, in a form approved by the Director, that the disclosed interest rate and terms are subject to change. (11-1-98)T

d. A statement disclosing that money paid by the applicant to the licensee for third party provider services are held in a trust account and any money remaining after payment to third party providers will be refunded to the applicant. (11-1-98)T

04. Licensee Enters Into a Lock-in Agreement. If, a licensee enters into a lock-in agreement with a lender or represents to the borrower that the licensee has entered into a lock-in agreement, then within no more than three (3) business days thereafter, including Saturdays, the licensee shall deliver or send by first-class mail to the borrower, for the borrower's signature, a written confirmation of the term of the lock-in agreement. (11-1-98)T

05. Licensee Shall Not Charge Any Fee That Inures to the Benefit of the Licensee. A licensee shall not charge any fee that inures to the benefit of the licensee if it exceeds the fee disclosed on the written disclosures pursuant to this rule unless; (11-1-98)T

a. The need to charge the excess fee was not reasonably forseeable at the time the written disclosure was provided, and; (11-1-98)T

b. The licensee has provided to the borrower no less than three (3) business days prior to the signing of the loan closing documents, a clear, written explanation of the need for charging a fee exceeding that which was previously disclosed. However, if the borrower's closing costs, excluding prepaid escrowed costs of ownership as defined by rule, does not exceed the total closing costs in the most recent good faith estimate, no other disclosures shall be required. (11-1-98)T

06. Prepaid Escrowed Costs. Prepaid escrowed costs of ownership include money collected, as a part of the regular mortgage payments, that are impounded by mortgage holders to pay real estate taxes, insurance premiums and mortgage insurance premiums when they become due. The unearned portions of these funds are the property of the owner of the residence, and are an additional cost to the purchaser that shall be considered in the closing of the mortgage loan. (11-1-98)T

051. -- 059. (RESERVED).

060. PROHIBITED PRACTICES (Rule 60).

01. Prohibited Practices. It shall be a prohibited practice for any licensee to: (11-1-98)T

a. Make any representation or statement of fact, or omit to state a material fact, if the representation, statement or omission is false or misleading or has the tendency or capacity to be misleading, or if the licensee or lender does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. Such claims or omissions include but are not limited to the availability of funds, terms, conditions, or changes incident to the mortgage transaction, prepayment penalties and the possibility of refinancing. In addition, other such claims, representations and omissions by the licensee include the amount of the brokerage fee, the services which will be provided or performed for the brokerage fee, the borrower's right to cancel any agreement with the licensee, and the identity of the mortgage lender that will provide the mortgage loan or commitment. (11-1-98)T

b. Accept an application from anyone other than a borrower, an employee or a bonded contract employee. This provision shall not prevent a person from referring consumers to a licensed mortgage broker or mortgage banker, provided that the person shall not accept a fee from the borrower or the licensee. (11-1-98)T

c. Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a broker: (11-1-98)T

i. Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)T

ii. Immediately upon expiration of the three (3) day rescision period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (11-1-98)T

d. Order or prepare closing documents for a mortgage loan until a lender has issued a firm commitment to make the loan on the same terms that have been disclosed to the borrower. A firm commitment is one which is not conditioned upon the underwriter's review of the credit report, employment information, title report, appraisal, or a review appraisal, if one is required by the lender. (11-1-98)T

e. Fail to give the borrower, upon the borrower's request, a reasonable opportunity (at least one (1) day) to review every document to be signed by the borrower, and every document which is required pursuant to these regulations, and other applicable laws, rules or regulations, prior to disbursement of the mortgage funds. (11-1-98)T

f. Require a borrower to obtain or maintain fire insurance in an amount that exceeds the appraised value of the improvements to the real estate. (11-1-98)T

g. Fail to take reasonable steps to communicate the material facts of the transaction in a language that is understood by the borrower. Reasonable steps which shall comply with this rule include, but are not limited to: (11-1-98)T

i. Use of adult interpreters; or (11-1-98)T

ii. Providing the borrower with a translated copy of the disclosure forms described in Section 050 (Rule 50) in a language that is understood by the borrower. (11-1-98)T

h. Fail to disclose to the borrower upon receiving a firm commitment for a loan, any information contained in the commitment which differs from the most recent good faith estimate provided to the applicant. (11-1-98)T

i. Engage in any deceptive advertising as set forth in Section 040 (Rule 40). (11-1-98)T

02. Application for a Mortgage Loan From a Prospective Borrower. It shall be a violation of Section 26-3104, Idaho Code, for a person to accept an application for a mortgage loan from a prospective borrower unless the person is a licensee, an employee of a licensee or a bonded contract employee of a licensee. (11-1-98)T

03. Prepayment Penalty. If a prepayment penalty can be assessed, that fact shall be disclosed in writing and verbally as one (1) of the terms the borrower must affirmatively agree to accept. The conditions that will cause the penalty to be assessed shall be disclosed and discussed, and the amount of the penalty shall be disclosed and discussed in detail. Written disclosures shall be in type size twelve (12) point courier or ten (10) pitch. (11-1-98)T

061. -- 069. (RESERVED).

070. FINANCIAL CONDITION (Rule 70).
Each licensee shall submit with the license application, and subsequent requests for renewals, a complete financial statement as of the most recent fiscal year end or fiscal quarter, that is prepared in accordance with Generally Accepted Accounting Principals (GAAP) and has been, at a minimum reviewed by a Certified Public Accountant. (11-1-98)T

071. -- 089. (RESERVED).

090. BORROWERS UNABLE TO OBTAIN LOANS (Rule 90).
If, for any reason, a licensee is unable to obtain a loan for an applicant, and the applicant has paid for any third party services including a credit report or appraisal, the licensee shall give a copy of the credit report or appraisal to the applicant and transmit the originals, along with any other documents provided by the applicant, to any other licensee to whom the applicant directs that the documents be transmitted. The licensee must provide the copies or transmit the documents within three (3) business days after the applicant makes the request in writing. (11-1-98)T

091. -- 099. (RESERVED).

100. EXEMPT ENTITIES (Rule 100).
The term "bank," "savings and loan association," and "credit union" shall include any wholly owned subsidiary of such organization, provided that the subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes. (11-1-98)T

101. -- 999. (RESERVED).

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-9805

NOTICE OF PROPOSED PROCLAMATION AND PUBLIC HEARING

AUTHORITY: In compliance with Section 36-105(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and meeting concerning setting the 1999 nonresident tag quotas, outfitter set-aside, and outfitter allocation.

PUBLIC HEARING SCHEDULE: A public hearing concerning concerning this proclamation will be held as follows:

A public hearing will be held at the following time and location followed by an open house:

September 30, 1998, 7:30 p.m. to 9:00 p.m.
Fire Warehouse Conference Room
Bureau of Land Management
Highway 93 South
Salmon, Idaho 83467

A meeting will be held on:

October 1 and 2, 1998, 8:00 a.m
Salmon - Challis National Forest
Supervisor's Office
Highway 93 South
Salmon, Idaho 83467

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact Steve Barton at 208-334-3781.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 31st day of August 1998.

W. Dallas Burkhalter
Idaho Department of Fish and Game
PO Box 25
600 South Walnut
Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.10 - IMPORTATION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: A public hearing and open house concerning this rule-making will be held as follows:

> **September 30, 1998 from 7:30 p.m. to 9:00 p.m**
> **Fire Warehouse Conference Room**
> **Bureau of Land Management**
> **Highway 93 South, Salmon, Idaho 83467**

A meeting will be held on. at the following location:

> **October 1 and 2, 1998, 8:00 a.m**
> **Salmon - Challis National Forest**
> **Supervisors Office**
> **Highway 93 South, Salmon, Idaho 83467**

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Amend rules to accommodate a proposed large commercial wildlife park.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Huffaker at 208-334-2920.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 31st day of August 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-3148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0110-9801

IDAPA 13
TITLE 01
Chapter 10

IMPORTATION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

000. LEGAL AUTHORITY.
The Idaho and Game Commission is authorized under Sections 36-103, 36-104(b), 36-501, and 36-504, Idaho Code, to adopt rules concerning the importation, posssession, release, sale, or salvage of wildlife in the state of Idaho. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.10.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.10, "Rules Governing the Importation. Possession, Release, Sale, or Salvage of Wildlife". ( )

02. Scope. These rules establish the protection of wildlife in the state of Idaho from illegal importation, possession, release, sale, or salvage. ( )

002. WRITTEN INTERPRETATIONS.
This agency has no written interpretations of these rules. ( )

003. ADMINISTRATIVE APPEAL.
All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission," and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ( )

004. -- 009. (RESERVED).

010. DEFINITIONS.

01. Commercial Wildlife Farm. Any facility where the operator obtains or possesses big game animals or breeds big game animals to produce young for any commercial purpose. Such facilities require a license and/or permit from the Idaho Department of Agriculture, United States Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS) where applicable. ~~(3-23-94)~~( )

02. Private Park. Any facility where the operator obtains, possesses or, propagates big game animals for his own personal pleasure but not for any commercial purpose. Such facilities require a ~~permit~~ license. ~~(3-23-94)~~( )

03. Wildlife. As defined in Idaho Code Section 36-202. (3-23-94)

04. ~~Ungulate. Hoofed mammal~~. Bona Fide Pet Store. A legitimate retail store with a set location and regular business hours. ~~(3-23-94)~~( )

05. Big Game Animal. As classified in IDAPA 13.01.06, "Classification and Protection of Wildlife". (3-23-94)

06. Agriculture or Domestic Fish. Shall include only rainbow trout (all color phases), coho salmon and blue or channel catfish. (3-23-94)

07. Agriculture or Domestic Animals. Shall not include any species of wildlife as defined by Idaho Code 36-202. (3-23-94)

08. Game Bird. As defined by IDAPA 13.01.06, "Classification and Protection of Wildlife". (3-23-94)

09. Commercial Wildlife Facility. Any facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. A commercial wildlife farm is included in this definition. Such facilities require a facility license. (   )

10. Not Permanently Located Within the State of Idaho. A traveling circus, menagerie, or trained act of wild animals which shall not be located within the state of Idaho more than two (2) months out of any calendar year. (   )

11. Traveling Circus, Menagerie, or Trained Act of Wild Animals. Any mobile display or exhibit of wildlife maintained for instructional, educational, entertainment, or other commercial purposes. (   )

12. Publicly Owned Zoo or Wildlife Exhibit. Any facility owned by any municipal, county, state, or federal agency. (   )

(BREAK IN CONTINUITY OF SECTIONS)

100. PERMITS. REQUIREMENTS FOR IMPORT, EXPORT, TRANSPORT AND SALE.
No person shall import, export, transport into or cause to be transported within, release or sell within the state of Idaho any living wildlife including wildlife eggs without having first obtained a permit from, and on a form prescribed by, the Director of the Idaho Department of Fish and Game. However, no permit shall be issued by the Director for such importation, transportation or release or sale if the wildlife or eggs thereof would pose a threat to wildlife in the state of Idaho either through threat of disease, genetic contamination or displacement of, or competition with existing species and provided that: (3-23-94)

01. Import, Export, Transport, or Sell Restrictions. No permit shall be required from the Department of Fish and Game to import, export, transport or sell the following: (3-23-94)

a. Animals or their eggs normally considered to be of agricultural or domestic types currently common to Idaho which shall not include any wildlife. (3-23-94)

b. Mammals classified as furbearers by the Idaho Fish and Game Commission, and that are to be used for purposes provided for in Chapter 30 of Title 25, Idaho Code. (3-23-94)

c. Ornamental or tropical aquarium fish of varieties commonly accepted for interstate shipment, but not including green sturgeon (Acipenser medirostris), white sturgeon (Acipenser transmontanus), walking catfish (family Claridae), bowfin (Amia calva), gar (family Lepiostidae), piranhas (Serrasalmus sp., Rosseveltiella sp. Pygocentrus sp.), rudd (Scardinus erythropthalmus), Ide (Leuciscus idus), grass carp (Ctenopharyngodon idella), and snakeheads or china fish (Channa sp.). (3-23-94)

d. Animals commonly considered to be conventional household pets, including sugar glider (Petaurus breviceps) and African hedgehog (Atelerix albiventris). ~~(3-23-94)~~(   )

e. Birds classified as game birds that are produced in captivity and lawfully obtained as shown by proof maintained and presented in accordance with Section 36-709 Idaho Code. (3-23-94)

02. Fish Legally Taken. No permit shall be required to keep game fish legally taken, other than salmon or steelhead, alive and in possession in a live well or net or on a stringer in or on the body of water from which they were taken. (7-1-93)

03. Commercial Fish Facility. No permit shall be required to possess fish from a commercial fish facility when accompanied by sales receipt as provided in Chapter 46, Title 22, Idaho Code. (7-1-93)

04. Transport Between Commercial Fish Facilities. No permit shall be required to transport fish between properly licensed commercial fish facilities. (3-23-94)

05. Fish Eggs. No permit shall be required to possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption. (3-23-94)

06. Wildlife. No wildlife except wildlife classified as unprotected or predatory as defined in IDAPA 13.01.06, "Classification and Protection of Wildlife," Subsection 200.03 and Section 250, may be taken from the wild in the state of Idaho and kept alive in captivity unless authorized by the Commission or in writing by the Director or his designee, and may require a permit from the Idaho Department of Agriculture/USDA APHIS. ~~(3-23-94)~~( )

a. No wildlife may be taken alive from state parks, national parks and monuments, wildlife management areas or nature preserves except as designated by the Commission or permitted in writing by the Director and permitted in writing by the responsible land management agency. (3-23-94)

b. No person shall capture alive or hold in captivity at any time more than four (4) Idaho native reptiles or amphibians of any one (1) species except as authorized by Commission Rule in writing by the Director. (3-23-94)

07. Birds of Prey. No additional permit shall be required to import, possess, transport or export legally possessed birds of prey in accordance with Idaho falconry rules IDAPA 13.01.14, "Rules Governing Falconry in the State of Idaho," by properly licensed falconers. (3-23-94)

08. Unprotected Wildlife. No permit shall be required to sell, export or transport within Idaho, any legally taken species of wildlife classified as unprotected by commission rule. (3-23-94)

09. Possession of Wildlife. The possession of any wildlife, progeny or eggs thereof imported into this state without a valid import permit, if such permit is required, shall be unlawful. (3-23-94)

101. IMPORT PROCEDURE.

01. Importation. Persons wishing to import any live wildlife, except those species exempt by Section 100 of this rule, into Idaho must obtain a license from the Idaho Fish and Game Department and must comply with the following requirements prior to importation. ( )

02. Obtain an Import Permit. Obtain an Import Permit when required from the Division of Animal Industries, Idaho Department of Agriculture, Boise, Idaho covering each animal or group of animals from the same source. ( )

03. Possession of Valid License. Possess a valid, appropriate commercial wildlife facility license or possession permit from the Department of Fish and Game for all species they possess classified as big game animals. ( )

04. Inspection and Examination Requirements. Obtain an examination of each animal by a licensed veterinarian, and a valid Certificate of Veterinary Inspection on animal(s). For fish, obtain (a) Certificate of Veterinary Inspection by a licensed veterinarian, or (b) CFR Title 50 certification, or (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases, parasites and genetic characteristics of concern and the testing/certification procedures and statements necessary to prevent introduction of diseases, parasites and genetically-related problems into the state of Idaho. Such testing and certification shall be implemented by the Division of Animal Industries of the Department of Agriculture and verified by the approved Certificate for the imported animal(s). Copies of the approved certificate must be sent to the Idaho Department of Fish and Game veterinarian by the importer within ten (10) days prior to arrival into Idaho. ( )

05. Wildlife in Transit. All required licenses and certificates must accompany said wildlife while in

transit. ( )

06. Issuance of Licenses. Licenses will not be issued after the fact for wildlife imported without necessary health certificates. ( )

07. Permits, Licenses, and Invoices Required. ( )

a. Each facility must have appropriate licenses. License application forms are available from the Idaho Department of Fish and Game. ( )

b. Animals may only be imported or possessed after a license is issued. ( )

c. In addition to any criminal penalties assessed by a court, licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or rules promulgated pursuant thereto. ( )

10~~1~~2. -- 199. (RESERVED).

200. NON-COMMERCIAL POSSESSION AND CONFINEMENT OF WILDLIFE REQUIREMENTS~~,~~ ~~PRIVATE PARKS AND COMMERCIAL WILDLIFE FARMS~~.

01. General. No person shall ~~operate or maintain a private park or commercial wildlife farm (hereafter wildlife facility) for the purpose of~~ possess~~ing~~, hold in captivity, or propagate any big game animals without obtaining the proper permit ~~or license~~ from the Idaho Department of Fish and Game~~, including import permits if the wildlife is to be brought into Idaho from another state or wildlife invoice if obtained from another facility within Idaho~~. All ~~permittees and~~ licensees shall comply with the following rules. ~~(3-23-94)~~( )

02. Compliance with City and County Ordinances and Federal Law. No person shall ~~maintain a wildlife facility~~ possess, hold in captivity, or propagate any big game animals without obtaining certification from the relevant city or county zoning and planning commissions that such ~~establishment~~ facility is in compliance with all county ordinances. In addition, all such persons must obtain certification from the U.S. Department of Agriculture that they are in compliance with federal laws. ~~(7-1-93)~~( )

03. Marking Big Game. All big game animals shall be uniquely marked with U.S. Department of Agriculture official, valid ear tags or other Department of Fish and Game approved marking system. (3-23-94)

~~04. Importation. Persons wishing to import any live wildlife, except those species exempt by Rule IDAPA 13.01.10.100, into Idaho must obtain an import permit from the Idaho Fish and Game Department and must comply with the following requirements prior to importation: (3-23-94)~~

~~a. Obtain an Import Permit when required from the Division of Animal Industries, Idaho Department of Agriculture, Boise, Idaho covering each animal or group of animals from the same source. (3-23-94)~~

~~b. Possess a valid, appropriate commercial wildlife farm license or private park permit from the Department of Fish and Game for all species they possess classified as big game animals. (3-23-94)~~

~~c. Obtain an examination of each animal by a licensed veterinarian, and a valid Certificate of Veterinary Inspection on animal(s). For fish, obtain (a) Certificate of Veterinary Inspection by a licensed veterinarian, or (b) CFR Title 50 certification, or © American Fisheries Society certified fish health inspectors certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases, parasites and genetic characteristics of concern and the testing/certification procedures and statements necessary to prevent introduction of diseases, parasites and genetically-related problems into the state of Idaho. Such testing and certification shall be implemented by the Division of Animal Industries of the Department of Agriculture and verified by the approved Certificate for the imported animal(s). Copies of the approved certificate must be sent to the Idaho Department of Fish and Game by the importer within ten (10) days after arrival into Idaho.~~

~~3-23-94)~~

0~~5~~4. Wildlife in Transit. All required ~~permits~~ licenses and certificates must accompany said wildlife while in transit. ~~(3-23-94)~~(____)

0~~6~~5. Issuance of ~~Permits~~ Licenses. ~~Permits~~ Licenses will not be issued after the fact for wildlife imported without necessary ~~permits~~ licenses and health certificates. ~~(3-23-94)~~(____)

0~~7~~6. ~~Permits,~~ Licenses~~, and Invoices~~ Required. ~~(3-23-94)~~(____)

a. Each facility must have ~~all~~ an appropriate ~~permits and~~ licenses~~.~~ ~~Permits and l~~Licenses are available from Idaho Department of Fish and Game ~~regional offices or state office~~. ~~(3-23-94)~~(____)

~~b. The facilities must be inspected by the Idaho Department of Fish and Game before a permit or license is issued. (7-1-93)~~

~~c~~b. In addition to any criminal penalties assessed by a court, permits and licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or regulations promulgated pursuant thereto. (3-23-94)

~~d. Persons in violation of Chapter 7 of Title 36, Idaho Code or these rules pertaining to wildlife confinement facilities shall be notified in writing and shall have ten (10) days to correct the violation. If at the end of that time the violation is not corrected, the Director may revoke any existing permit or license and may refuse to issue any future premit. Such revocation or refusal to issue a future permit shall be in addition to any criminal charges that may be filed. (3-23-94)~~

~~e. A commercial wildlife farm licensee may sell or otherwise dispose of the carcass, parts, or byproducts of a properly identified big game animal taken from a commercial wildlife farm, only upon preparing an invoice or bill of sale as specified by the Idaho Department of Fish and Game and attaching a copy of it to the lot shipment, carcass or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or byproducts of the animal, the same may be transported to the transferee named on the invoice or bill of sale. (3-23-94)~~

~~f. The licensee may sell commercial wildlife farm animals for meat upon compliance with all applicable health laws, USDA and Idaho Department of Agriculture regulations. (3-23-94)~~

0~~8~~7. Applications. Application for ~~permits or~~ licenses shall be on a form prescribed by the Department of Fish and Game. A separate application shall be made for each facility. ~~(3-23-94)~~(____)

0~~9~~8. Inspections. The ~~permittee or~~ licensee or anyone holding wildlife in captivity shall make available for inspection all records, all wildlife, and the facilities where the wildlife are kept at any reasonable time upon request of the Idaho Department of Fish and Game. ~~(7-1-93)~~(____)

~~10~~09. Records Requirements. Records of all captive wildlife shall be kept current and up to date and made available as specified in Section 36-709 Idaho Code. (3-23-94)

1~~1~~0. Cages or Enclosures. (7-1-93)

a. It shall be required of each owner of big game animals to pen such animals in suitable pens and restrain them for inspection at any reasonable time when requested to do so by the Director or his representative. (3-23-94)

b. Big game animals, including ~~B~~bear and mountain lion shall be confined in enclosures that meet the following minimum requirements: ~~(3-23-94)~~(____)

i. Has a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging

through the floor to escape; (7-1-93)

ii. Has a chain link fence of at least eight (8) feet in height; (3-23-94)

iii. Has a chain link cage top, or has any other Department approved configuration such as a pit that will preclude escape. (3-23-94)

~~iv. Substantial guard rails not less than thirty-six (36") high, supported or fully enclosed with wire mesh not larger than two (2") inches and spaced not more than two (2") inches from the ground shall be constructed around all cages or enclosures at any point the public is allowed to approach. 3-23-94)~~

~~v. On the side or sides where the public may approach the cage or enclosure the guard rail shall be a distance of not less than four (4") feet from the enclosure in which such animals are confined. (3-23-94)~~

~~vi~~iv. Cages, fencing and guard rails shall be kept in good repair at all times and gates or doors shall be securely fastened and locked. (3-23-94)

c. All such cages and/or enclosures for big game animals shall be of sufficient size to give the animal confined ample space for exercise and to avoid being overcrowded. (3-23-94)

i. The length of the cage or enclosure shall be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept. (3-23-94)

ii. The width shall be at least three-fourths (3/4) of the minimum cage length. (3-23-94)

iii. For the second animal housed in cage, floor space shall be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space shall be increased fifteen percent (15%). Cages with tops shall be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions which might injure or impair the animal shall be allowed within the cages. (3-23-94)

d. A suitable shelter or shield shall be provided for big game animals for protection from inclement weather and from the sun. (3-23-94)

e. Cages or enclosures for big game animals shall be kept in a clean and sanitary condition consistent with good animal husbandry. (3-23-94)

f. All venomous reptiles in captivity shall be kept in a cage or in a safety glass enclosure sufficiently strong, and in the case of a cage, of small enough mesh to prevent the animal's escape and with double walls sufficient to prevent penetration of fangs to the outside. All cages and glass enclosures must be locked. (3-23-94)

1~~2~~1. Humane Treatment. (7-1-93)

a. All native wildlife that may be legally taken from the wild and held in captivity under the provisions of Title 36, Idaho Code and these rules and all captive big game animals shall be handled in a humane manner and kept free from parasites, sickness or disease, and if they become infected, injured or unsightly shall be removed from public display by the permit holder. (3-23-94)

b. Any big game animal afflicted with a disease shall immediately be given medical attention consistent with good animal husbandry. A complete record of illness, treatment and disposition must be maintained by the permit holder. (3-23-94)

c. A certificate from a licensed veterinarian shall be supplied to the Idaho Department of Fish and Game upon demand stating the physical condition or health of all big game animals confined under the permit. (3-23-94)

d. Daily feeding schedules shall be maintained for all big game animals. Food must be adequate and varied and so far as possible consistent with food ordinarily eaten by such animals. (3-23-94)

e. Fresh or running water for drinking purposes shall be available in cages or enclosures at all times and shall be kept clean and in a sanitary condition. (3-23-94)

f. Any animals with a propensity to fight or which are otherwise incompatible shall be kept segregated. (7-1-93)

g. At no time shall any wildlife held in captivity be chained or otherwise tethered. Except raptors, see falconry rules. (3-23-94)

1~~3~~2. Intrastate Movement. Intrastate movement will be allowed for nonquarantined big game animals, from one licensed facility to another which possesses a license for that subspecies, provided that: (3-23-94)

a. Such big game animals shall be individually identified by an accredited veterinarian on a Certificate of Veterinary Inspection that shall accompany the animal while in transit, and shall be marked with U. S. Department of Agriculture official, valid eartags ~~and~~ or other Department of Fish and Game approved marking system. ~~(3-23-94)~~(____)

b. A wildlife invoice and bill of sale, properly filled out and signed by the licensee or his agent shall accompany each such animal while being transported. (3-23-94)

i. The invoice shall state the name of the wildlife facility from which the animal is being transported and the facility it is being transported to, and shall state the date of disposition, the species and the number disposed of. (3-23-94)

ii. The invoice shall be in triplicate with one (1) copy being retained by the transferrer, one (1) copy delivered to the transferee with the animal and one (1) copy to be mailed to the Department of Fish and Game by the transferrer within ten (10) days of the date of disposition. (3-23-94)

c. An intrastate transport ~~permit~~ license is obtained from the Director or his designee.~~(3-23-94)~~(____)

1~~4~~3. Release of Wildlife Without a Permit. Any wildlife, except fish, that is released without a permit or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Idaho Department of Fish and Game at the owner's expense. (3-23-94)

1~~5~~4. Unpermitted Fish Species. Any fish species unpermitted for import, possession, transport or release that is released by or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Department of Fish and Game at the owner's expense. (3-23-94)

1~~6~~5. Diseases of Captive Wildlife. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the state of Idaho. Such mechanisms and procedures shall include but not be limited to examination, testing, quarantine and slaughter or destruction of individual animals and/or herds that are infected with or affected by diseases and/or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures shall be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. Such examinations, testing, quarantine and slaughter of animals or herds shall be conducted at the expense of the owner of said animals or herds. (3-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

400. ~~PRIVATE ZOOS, MENAGERIES, ANIMAL DISPLAYS, PRIVATE WILDLIFE PARKS AND~~ COMMERCIAL WILDLIFE ~~FARMS~~ FACILITIES.

01. General. No person shall operate or maintain a ~~private zoo, menagerie, animal display, private wildlife park or~~ commercial wildlife ~~farm~~ facility ~~(hereafter wildlife facility)~~ without obtaining the proper ~~permit or~~ facility licenses from the Idaho Department of Fish and Game~~, including import permits if the wildlife is to be brought into Idaho from another state~~. All ~~permittees and~~ licensees shall comply with the following rules. ~~(7-1-93)~~(____)

02. Compliance with City and County Ordinances and Federal Law. No person shall maintain a wildlife facility without first obtaining certification from the relevant city or county zoning and planning commissions that such establishment is in compliance with all county ordinances. In addition, all such persons must obtain certification from the U.S. Department of Agriculture that they are in compliance with federal laws. ~~(7-1-93)~~(____)

03. ~~Permits and~~ Licenses. ~~(7-1-93)~~(____)

a. Each facility must have ~~all~~ an appropriate ~~permits and~~ facility license~~s~~. ~~Permits and l~~Licenses are available from Idaho Department of Fish and Game~~ regional offices~~. ~~Permits are issued free of charge.~~ The commercial wildlife ~~farm~~ facility license fee is ~~ten~~ twenty-five dollars ($~~10~~25). ~~(7-1-93)~~(____)

~~b. The facilities must be inspected by the Idaho Department of Fish and Game before a permit or license is issued. (7-1-93)~~

~~c~~b. ~~Permits and l~~Licenses shall be displayed at the ~~permitted or~~ licensed facility in plain view at all times. ~~(7-1-93)~~(____)

~~d~~c. ~~Permits and l~~Licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or rules promulgated pursuant thereto or for violating any license or permit conditions. In case of revocation, all animals shall be removed by owner or by the Idaho Department of Fish and Game at owner's expense. (7-1-93)(____)

~~e. Persons in violation of Chapter 7 of Title 36, Idaho Code and/or these rules shall be notified in writing and shall have ten (10) days to correct the violation. If at the end of that time the violation is not corrected, the Director may revoke any exisiting permit or license and may refuse to issue any future permit. Such revocation or refusal to issue a future permit shall be in addition to any criminal charges that may be filed. (7-1-93)~~

04. Applications. Application for ~~permits or~~ licenses to import and/or possess wildlife shall be on a form prescribed by the Department of Fish and Game. A separate application shall be made for each facility and for any animal(s) imported after a facility is licensed. ~~unless the facility requires a combination of permits or permits and a license. In that event a single application may be made indicating which permits or combination of permits and license is being applied for.~~ The application shall include: ~~(7-1-93)~~(____)

a. The name and address of the applicant. (7-1-93)

b. Proof of compliance with city/county zoning and/or ordinance. (____)

~~b~~c. The name and address of the owner(s) of the wildlife if not the applicant. (7-1-93)

~~c~~d. The location of the proposed facility, including a legal description of the land and the approximate space devoted to the facility. (7-1-93)

~~d~~e. The name and address of the owner of the property if not the applicant. (7-1-93)

~~e~~f. The number and kinds of wildlife being or to be kept. (7-1-93)

~~f~~g. The date upon which each animal ~~was, or~~ is to be~~,~~ obtained. ~~(7-1-93)~~(____)

~~g~~h. The source, including address and telephone number, from which each animal ~~was, or~~ is to be~~,~~ obtained, and health certificate for all animals (see Section 101 of this rule) addressing diseases of concern. If already in possession, the type of permit or license under which each animal is possessed. ~~(7-1-93)~~(____)

~~h~~i. Specifications of pens and shelters furnished for each kind of animal. (7-1-93)

~~i~~j. Specifications of the guard fence or other security measures to ~~protect the public from~~ prevent escape or injury by the animals. ~~(7-1-93)~~(____)

05. Inspections. The ~~permittee or~~ licensee shall make available for inspection all records, all wildlife, and the facilities covered by the ~~permit or~~ license at any reasonable time upon request of the Idaho Department of Fish and Game. ~~(7-1-93)~~(____)

06. Evidence of Legal Possession. Records shall include evidence of legal possession of all wildlife kept at the facility or under the ~~permits or~~ licenses, including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. The records shall also identify all animals born at the facility, exported from the facility, or transported within the state. ~~(7-1-93)~~(____)

07. Dead Wildlife. Record of inspection by a licensed veterinarian shall be kept for all wildlife which die on the premises, and a copy shall be forwarded to the Department of Fish and Game Wildlife Laboratory within ten (10) days of the death of the animal. (____)

0~~7~~8. Cages or Enclosures. (7-1-93)

a. All wildlife held in captivity in a wildlife facility shall be confined at all times in cages or pens of such structure or type of construction that it will be impossible for such animals to escape. (7-1-93)

b. ~~Animals that would reasonably pose a threat to human safety if allowed to run freely~~ Big game animals, including bear and mountain lion, shall be confined in enclosures that meet the following minimum requirements: ~~(7-1-93)~~(____)

i. Has a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; (7-1-93)

ii. Has a chain link fence of at least eight (8) feet in height with barbed wire overhang; (7-1-93)

iii. Has a cage top. (7-1-93)

iv. Has any other configuration such as a pit that will preclude escape. (7-1-93)

c. All such cages and/or enclosures shall be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. (7-1-93)

i. The length of the cage or enclosure shall be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. (7-1-93)

ii. The width shall be at least three-fourths (3/4) of the cage length. (7-1-93)

iii. For the second animal housed in cage, floor space shall be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space shall be increased fifteen percent (15%). Cages with tops shall be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions which might injure or impair the animal shall be allowed within the cages. (7-1-93)

d. All cages or enclosures shall be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails shall be kept in good repair at all times and gates or doors shall be securely fastened with latches or locks. ~~(7-1-93)~~(____)

~~i. Substantial guard rails not less than thirty-six (36) inches high, supported or fully enclosed with wire mesh not larger than two (2) inches and spaced not more than two (2) inches from the ground shall be constructed around all cages or enclosures. (7-1-93)~~

~~ii. On the side or sides where the public may approach the cage or enclosure the guard rail shall be a distance of not less than four (4) feet from the enclosure in which such animals are confined. (7-1-93)~~

~~iii. Cages, fencing and guard rails shall be kept in good repair at all times and gates or doors shall be securely fastened with latches or locks. (7-1-93)~~

e. Each cage or enclosure for birds and smaller animals shall be provided with a den, nest box or other suitable housing containing adequate bedding material as may be required for the comfort of the species held. A suitable shelter or shield shall be provided for larger animals for protection from inclement weather and from the sun. At least one (1) wall of the enclosure shall be constructed so as to provide a windbreak for the animal confined. (7-1-93)

f. Cages or enclosures shall be kept dry if containing terrestrial animals and with adequate water if containing aquatic animals. Where natural climate of the species being held differs from the climate of the area where the wildlife facility is located, provisions shall be made to adjust holding conditions, as nearly as possible, to natural habitat. (7-1-93)

g. Cages or enclosures shall be kept free of offensive odors and/or other unhealthy conditions. All cages or enclosures shall be properly disinfected and cleaned at least once each day. (7-1-93)

09. Large Commercial Wildlife Facilities. Commercial wildlife facilities which are of a size large enough or with a large number of animals which are incompatible with the cage or enclosure requirements of Subsection 400.07 may, in the director's discretion, be addressed on a case-by-case basis. It is intended that such facilities would house three (3) or more species or encompass display or exhibit areas larger than one (1) acre to qualify for consideration. ( )

a. Animals will be displayed in such a way as to preserve their dignity and in a natural appearing environment. The displays should enhance appreciation for the species and its natural history. ( )

b. The cages and/or enclosures shall be of such structure or type of construction to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease. ( )

c. Applications for a commercial wildlife facility license shall generally meet the requirements of Subsection 400.04. Additionally, the application shall identify the veterinarian of record for the facility. ( )

d. The department will refer to the standards such as those set by the American Zoological Association to develop cage, open space, shelter, and enclosure requirements. Such requirements may include, but not limited to, fence specifications, electric fence specifications, pits or moats, or buried fencing. ( )

e. All applications shall be accompanied by a bond to the state of Idaho, Department of Fish and Game in the amount of five thousand dollars ($5,000), executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for clean-up of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. ( )

f. The specific requirements shall be set forth as license conditions. Violation of a license condition shall be a violation of these rules. ( )

~~08~~10. Humane Treatment. (7-1-93)

a. All wildlife that may be legally taken from the wild and held in captivity under the provisions of Title 36, Idaho Code and these rules and all captive big game animals shall be handled in a humane manner and kept free from parasites, sickness or disease, and if they become infected, injured or unsightly shall be removed from public display by the permit holder. (3-23-94)

b. Any animal afflicted with parasites or disease shall immediately be given professional medical attention or be destroyed in a humane manner. A complete record of illness, treatment and disposition must be maintained by the permit holder. (7-1-93)

c. A certificate from a licensed veterinarian shall be supplied to the Idaho Department of Fish and Game at least once each year or upon demand stating the physical condition or health of animals confined under the permit. Certificates shall be upon forms furnished by the Department. (7-1-93)

d. Regular feeding schedules shall be maintained for all animals. Food must be adequate and varied and so far as possible consistent with food ordinarily eaten by such animals. Food must be of good quality and stores of same shall be kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. ~~(3-23-94)~~( )

~~i. Food must be of good quality and stores of same shall be kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. (7-1-93)~~

~~ii. The public shall not be permitted to feed any animals other than monkeys. Proper signs shall be conspicuously posted on cages or enclosures advising the public to refrain from feeding or annoying the birds or animals. (7-1-93)~~

e. Fresh or running water for drinking purposes shall be available in cages or enclosures at all times. Drinking fountains or other receptacles shall be available in cages or enclosures a all times and shall be kept clean and in a sanitary condition. (7-1-93)

f. Any animals with a propensity to fight or which are otherwise incompatible shall be kept segregated. (7-1-93)

g. At no time shall any wildlife held for public display or exhibition be chained or otherwise tethered to any stake, post, tree, building, or other anchorage. (7-1-93)

11. Sale of Animal Meat or Parts. ( )

a. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or byproducts of a properly identified big game animal taken from a commercial wildlife facility, only upon preparing an invoice or bill of sale as specified by the Idaho Department of Fish and Game and attaching a copy of it to the lot shipment, carcass or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or byproducts of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ( )

b. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and Idaho Department of Agriculture rules. ( )

12. Responsibility of License Holder. The license holder shall be responsible for the care of the wildlife in its possession and the protection of the public. The license holder shall be liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department is concerned only with the protection of wildlife and makes no representation concerning public safety of the licensed animals or facilities. ( )

(BREAK IN CONTINUITY OF SECTIONS)

~~**700. GAME FARMING/RANCHING.**~~

~~01. Definitions. (7-1-93)~~

~~a. Wildlife: as defined in Idaho Code Section 36-202. (7-1-93)~~

~~b. Ungulate: hoofed mammal. (7-1-93)~~

~~02. Importation. Persons wishing to import any live wildlife into Idaho must comply with the following requirements prior to transportation: (7-1-93)~~

~~a. Obtain an Import Permit from the Division of Animal Industries, Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712, covering each animal or group of animals from the same source. (7-1-93)~~

~~b. Possess a valid, appropriate commercial big game farm license and Department of Fish and Game import permit. Only animals in the same subspecies as animals approved on the license can be imported. Furbearers imported for fur farming purposes are exempt as per Idaho Code Section 36-711. All native and exotic game birds require a Department of Fish and Game import permit, but are exempt from a commercial game farm license. (7-1-93)~~

~~c. All wild ungulates must be marked with United States Department of Agriculture official, valid eartags or other Department of Fish and Game approved marking system. (7-1-93)~~

~~d. Obtain an examination of each animal by a licensed veterinarian, and a valid Certificate of Veterinary Inspection verifying disease-free status. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases, parasites and genetic characteristics of concern and the testing/certification procedures and statements necessary to prevent introduction of diseases, parasites and genetically-related problems into the State of Idaho. Such testing and certification shall be implemented by the Division of Animal Industries of the Department of Agriculture and verified by the Certificate of Veterinary Inspection for the imported animal(s). (7-1-93)~~

~~03. Prohibited Species. (7-1-93)~~

~~a. No person shall import any species of live wildlife not approved by the Director. The Director shall maintain a list of species which may be imported.(7-1-93)~~

~~b. Any prohibited species shall not be possessed, imported, transported, released, sold, bartered or traded within Idaho, EXCEPT as authorized in writing by the Director. (7-1-93)~~

~~c. Owners having proof of possession prior to January 1, 1992, may continue to possess a prohibited species for the life of the animal, provided the animal is not bred, transported, released, sold, bartered or traded within Idaho. The prohibited species may be transported out of Idaho, providing the owner complies with all state rules and federal regulations. (7-1-93)~~

~~04. Intrastate Movement. (7-1-93)~~

~~a. Intrastate movement will be allowed for nonquarantined animals, from one licensed faility to another which possesses a license for that subspecies, if such a license is required for that subspecies. Such animals shall be individually identified by an accredited veterinarian on a Certificate of Veterinary Inspection. (7-1-93)~~

~~b. Any prohibited species that is released by or escapes from an owner or operator shall be captured or~~

~~destroyed by the owner, or by the Idaho Department of Fish and Game at the owner's expense.~~ ~~(7-1-93)~~

~~05.~~ ~~Diseases of Captive Wildlife. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the State of Idaho. Such mechanisms and procedures shall include but not be limited to examination, testing, quarantine and slaughter or destruction of individual animals and/or herds that are infected with or affected by diseases and/or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures shall be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. Such examinations, testing and quarantine of animals or herds shall be conducted at the expense of the owner of said animals or herds.~~ ~~(7-1-93)~~

70~~1~~0. LIST OF SPECIES APPROVED FOR IMPORTATION INTO IDAHO.

Jerry M. Conley, Director, Idaho Department of Fish and Game. The following species are generally approved to be possessed, imported into or transported, sold, bartered or traded within Idaho ~~as specified by Idaho Game Farming/Ranching Rules~~. ~~(7-1-93)~~(   )

01. Approved License Required. No person shall import any species of live wildlife without a license approved by the director or his designee. (   )

02. Species Allowed for Importation. The following species have been approved for importation into Idaho (a license is still required): (   )

~~01~~a. Rocky Mountain Elk. Cervus elaphus canadensis. (7-1-93)

~~02~~b. Roosevelt Elk. Cervus elaphus roosevelti. (7-1-93)

~~03~~c. Manitoba Elk. Cervus elaphus manitobensis. (7-1-93)

~~04~~d. Reindeer/Caribou. Rangifer tarandus spp. Only allowed south of the Salmon River. (7-1-93)

~~05~~e. Rocky Mountain Mule Deer. Odocoileus hemionus hemionus. (7-1-93)

~~06~~f. Pronghorn/Antelope. Antilocapra americana americana. (7-1-93)

~~07~~g. Bison/Buffalo. Bison bison. (7-1-93)

~~08~~h. Fallow Deer. Dama dama spp. (7-1-93)

~~09.~~ ~~Sika Deer. Cervus nippon spp.~~ ~~(7-1-93)~~

~~10~~i. Muntjac Deer. Muntiacus muntjak spp. (7-1-93)

~~11~~j. Wild Turkey (Merriams, Rio Grande and Eastern). Melagris gallapavo spp. (7-1-93)

~~12~~k. Pheasants. All species. (7-1-93)

~~13~~l. Columbian Sharp-tailed Grouse. Pedioecetes phasianellus. (7-1-93)

~~14~~m. Gray/Hungarian Partridge. Perdix perdix. (7-1-93)

~~15~~n. Chukar Partridge. Alectoris graeca. (7-1-93)

~~16~~o. Blue Grouse. Dendrogapus obscurus. (7-1-93)

~~17~~p. Spruce Grouse. Canochites canadensis. (7-1-93)

~~18~~q. Ruffed Grouse. Bonasa umbellus. (7-1-93)

~~19~~r. Wild Quail (Northern Bobwhite, California, Mountain and Gambel's). Colinus virginianus, Callipepla californica, Oreortyx pictus and Callipepla gambelii. (7-1-93)

03. Fur Farms, Fish Farms, Domestice Cervidae, and Bona Fide Pet Stores. Fur farms, fish farms, domestic cervidae, and bona fide pet stores are regulated by the Idaho Department of Agriculture. However, a license to import those animals into the state shall be obtained from the Idaho Department of Fish and Game prior to importation. ( )

04. All Other Species. All species of live wildlife not listed above for importation will be considered on a case-by-case basis. Application shall be made on a department-prepared form and comply with the procedures of section 101 of these rules. The decision on whether import and possession will be allowed shall be in the director's discretion, based on the protection of Idaho's wildlife from habitat degradation, genetic contamination, competition, or disease. ( )

70~~2~~1. -- 999. (RESERVED).

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.20 - RULES GOVERNING SELECTION OF FISH AND GAME LICENSE VENDORS

DOCKET NO. 13-0120-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective August 31, 1998.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

Delete obsolete language as requested by auditors.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charged imposed or increased:

NONE.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Steve Barton at 208-334-3781.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1998.

DATED this 31st day of August 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-3148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0120-9801

~~**105. REFUNDABLE DEPOSIT REQUIRED.**~~
~~All vendors approved after July 1, 1995 will submit a five hundred dollars ($500) refundable deposit with the signed~~

~~contract. The director may waive this requirement if necessary in order to provide reasonable license availability to the public in remote locations. The refundable deposit will be deposited with the state treasurer in the fish and game fund. Thedeposit will be returned when the vendor contract is terminated by either party and all department equipment and materials are returned in good order less normal wear. No interest on the deposit will be paid.~~ ~~(3-20-97)~~

10~~6~~<u>5</u>. -- 999. (RESERVED).

IDAPA 15 - OFFICE OF THE GOVERNOR

15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0101-9801

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To remove references to Care Coordination and Respite programs in the Fee Required section of the Rules.

The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rules in place while the pending rules await legislative approval, the Commission amended the temporary rules with the same revisions which have been made to the proposed rules.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the July 1, 1998, Idaho Administrative Bulletin, Volume 98-7, pages 96 through 110.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ken Wilkes at 208/334-2219.

DATED this 24th day of August, 1998

Arlene D. Davidson
Director
Idaho Commission on Aging
PO Box 83720
Boise, ID 83720-0007
Phone: 208/334-3833
Fax: 208/334-3033

IDAPA 15
TITLE 01
Chapter 01

RULES GOVERNING SENIOR SERVICES PROGRAM

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 7, 1998, pages 96 through 110.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0101-9801

026. FEES AND CLIENT CONTRIBUTIONS.

01. Poverty Guidelines. Clients whose income exceeds one hundred percent (100%) of poverty (as established by the United States Department of Health and Human Services) shall be required to pay a fee for service according to a variable fee schedules established by the ICOA. (7-1-98)

02. Income Declaration. Income shall be determined by an annual client self-declaration. When a client's income increases or decreases, the client shall notify the provider for a redetermination of income. (7-1-98)

03. Determining Income. For this purpose, income means gross household income from all sources, less the cost of medical insurance and expenditures for non-covered medical services and prescription drugs. Payments the client receives from owned property currently being leased shall be counted as income after expenses are deducted if paid by the client, i.e., insurance, taxes, water, sewer, and trash collection. In determining income for respite clients, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household. ~~(7-1-98)T~~(7-1-98)T

04. Fee Based on Actual Cost. Assessed fee shall be a percentage of the provider's actual unit cost. (7-1-98)

05. Fee Waived. The fee may be waived for clients who refuse to pay a fee if there is documented evidence that not providing the service would increase risk or harm to the client. (7-1-98)T

06. Fee Required. Fees are required from clients receiving ~~Care Coordination,~~ either Chore~~,~~ or Homemaker~~, and Respite~~ Services. ~~(7-1-98)T~~(7-1-98)T

07. Client Contributions. Clients whose annual income falls below poverty shall be given the opportunity to make voluntary contributions. (7-1-98)

08. Use of Fees and Contributions. Providers shall maintain accounting records of all fees and contributions collected and of all monies expended from these sources. All monies derived from fees, contributions, or both, shall be used to offset the costs of providing the service(s) for which they were collected. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR

15.01.02 - RULES GOVERNING ADULT PROTECTION SERVICES
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0102-9801

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To change language to allow use of approved forms other than UAI to determine an alleged victim's vulnerability and associated risk factors.

The proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rules in place while the pending rules await legislative approval, the Commission amended the temporary rules with the same revisions which have been made to the proposed rules.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the July 1, 1998, Idaho Administrative Bulletin, Volume 98-7, pages 111 through 113.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ken Wilkes at 208/334-2219.

DATED this 24th day of August, 1998

Arlene D. Davidson, Director
Idaho Commission on Aging
PO Box 83720
Boise, ID 83720-0007
Phone: 208/334-3833
Fax: 208/334-3033

IDAPA 15
TITLE 01
Chapter 02

RULES GOVERNING ADULT PROTECTION SERVICES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 111 through 113.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKERT NO. 15-0102-9801

031. INVESTIGATIVE REQUIREMENTS.

01. Vulnerability Determination. Upon investigating an AP report, each area agency shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, AP may refer the complaint to the Ombudsman, Law Enforcement or other appropriate entity for investigation and resolution. (7-1-98)

02. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the administration of the UAI ~~and~~ or other standardized supplemental forms. Initial interviews and assessments of an alleged victim shall be conducted by an AP worker. ~~(7-1-98)~~(7-1-98)T

03. Investigative Findings. AP shall make one (1) of two (2) investigative findings upon completion of an AP investigation: (7-1-98)

a. Substantiated. AP determines that a report is valid based on sufficient evidence. (7-1-98)

b. Unsubstantiated. AP determines that a complaint is invalid due to insufficient supporting evidence. This finding requires AP to close the case. (7-1-98)

i. If an allegation is unsubstantiated, but the vulnerable adult has unmet service needs, AP shall initiate appropriate referrals with consent of the vulnerable adult or his legal representative. (7-1-98)

ii. A case shall be closed if AP determines that an allegation has been made in bad faith or for a malicious purpose. (7-1-98)

iii. A case shall be closed if AP determines that an alleged victim is not a vulnerable adult. (7-1-98)

04. Caretaker Neglect. In investigating a report of caretaker neglect, AP shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, AP shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, AP shall make appropriate referrals to available community services to provide needed assistance. (7-1-98)

05. Referral to Law Enforcement. A substantiated report of abuse, neglect or exploitation is presumed to have caused a serious imposition of rights or injury to the alleged victim and shall be immediately referred to law enforcement pursuant to Section 39-5310, Idaho Code. (7-1-98)

06. Adult Protection and Ombudsman Coordination. Area agencies shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (7-1-98)

07. Confidentiality. All records relating to a vulnerable adult and held by an area agency are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304(5), 39-5308, Idaho Code, and IDAPA 15.01.01, Section 028, "Rules Governing Senior Services Program". (7-1-98)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-145(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Proposed changes define the standards and processes for designation of clinical capability in three levels: pre-hospital advanced life support, inter-facility advanced life support, and critical care transports. EMS agencies which choose to offer these services can be licensed at one of four levels depending what combination of the three clinical capabilities they provide. The standards for each level address the operational EMS configurations of personnel, training, equipment, documentation, and basis for administrative action. Additionally, a seat is being added for a representative of privately owned ambulance services to the State EMS Advisory Committee due to receipt of a petition for rule making requesting such.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Dia Gainor at, (208) 334-4000.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0203-9801

004. DEFINITIONS AND ABBREVIATIONS.
For the purposes of these rules, the following terms and abbreviations will be used, as defined below: (7-1-80)

01. Advanced Emergency Medical Technician-Ambulance (AEMT-A). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an intermediate training program, examination, subsequent required continuing training, and recertification. (7-1-97)

02. Advanced Life Support (ALS). The provision of medical care, medication administration and treatment with medical devices which correspond to the knowledge and skill objectives in the EMT-Paramedic curriculum currently approved by the State Health Officer in accordance with Section 201.04 of these rules and within the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, by persons certified as EMT-Paramedics in accordance with these rules. ( )

03. Advertise. Communication of information to the public, institutions, or to any person concerned, by any oral, written, or graphic means including handbills, newspapers, television, radio, telephone directories and billboards. ( )

04. Agency. An applicant for designation or a licensed EMS service seeking designation. ( )

0~~2~~5. Ambulance. Any privately or publicly owned ground vehicle, nautical vessel, fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. (7-1-97)

06. Ambulance-Based Clinicians. Ambulance-Based Clinicians, as used in these rules, are Licensed Professional Nurses, Advanced Practice Professional Nurses, and Physician Assistants who are licensed by the Board of Nursing or the Board of Medicine, and are not certified by the EMS Bureau. ( )

0~~3~~7. Board. The Idaho State Board of Health and Welfare. (12-31-91)

0~~4~~8. Certification. A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards corresponding to one (1) or several levels of EMS proficiency have been met. (7-1-97)

0~~5~~9. Certified Personnel. Individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels of emergency medical services. (7-1-97)

10. Critical Care Transfer (CCT). The transportation of a patient with continuous care, monitoring, medication or procedures requiring knowledge or skills not contained within the EMT-Paramedic curriculum approved by the State Health Officer. Interventions provided by EMT-Paramedics are governed by the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05. ( )

~~06~~11. Director. The Director of the Department of Health and Welfare or designated individual. (12-31-91)

~~07~~12. Division. The Idaho Division of Health, Department of Health and Welfare. (11-19-76)

13. Emergency. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ( )

~~08~~14. Emergency Medical Services (EMS). The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (11-19-76)

~~09~~15. EMS Bureau. The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (11-19-76)

1~~0~~6. EMS Standards Manual. A manual published by the EMS Bureau detailing policy information including EMS education, training, certification, licensure, and data collection. (7-1-97)

1~~1~~7. Emergency Medical Technician-Ambulance (EMT-A). A designation issued to an EMT-B by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of supervised in-

field experience. (7-1-97)

1~~2~~8. Emergency Medical Technician-Basic (EMT-B). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a basic EMT training program, examination, subsequent required continuing training, and recertification. (7-1-97)

1~~3~~9. Emergency Medical Technician-Paramedic (EMT-P). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a paramedic training program, examination, subsequent required continuing training, and recertification. (7-1-97)

~~14~~20. First Responder. An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a first responder training program, examination, subsequent required continuing training, and recertification. (7-1-97)

~~15~~21. Licensed EMS Services. Ambulance services and non-transport services licensed by the EMS Bureau to function in Idaho. (7-1-97)

~~16~~22. National Registry of Emergency Medical Technicians (NREMT). An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for certification. (7-1-97)

~~17~~23. Non-transport. A vehicle design or organizational configuration which brings EMS personnel or equipment to a location, but does not move any sick or injured person from that location. (7-1-97)

24. Occasional. Less than twelve (12) occurrences in a twelve (12) month period. (   )

25. Out-of-Hospital. Any setting outside of a hospital, including interfacility transfers, in which the provision of EMS may take place. (   )

~~18~~26. Physician. A person licensed by the State Board of Medicine to practice medicine or surgery or osteopathic medicine or surgery in Idaho. (11-17-96)

27. Prehospital. Any setting (including standbys) outside of a hospital, with the exception of the interfacility transfer, in which the provision of EMS may take place. (   )

~~19~~28. State Health Officer. The Administrator of the Division of Health. (11-19-76)

29. Transfer. The transportation of a patient from one (1) medical care facility to another by ambulance. (   )

(BREAK IN CONTINUITY OF SECTIONS)

100. STATEWIDE EMS ADVISORY COMMITTEE.

The Director will appoint a Statewide EMS Advisory Committee to provide counsel to the Department in administering the EMS Act. The Committee members will have a normal tenure of three (3) years after which time they may be excused or reappointed. However, in order to afford continuity, initial appointments will be made to one-third (1/3) of the membership for two (2) years, one-third (1/3) for three (3) years, and one-third (1/3) of the membership for four (4) years. The Committee chairman will be selected by the State Health Officer. (7-1-97)

01. Membership. The Statewide EMS Advisory Committee will be constituted as follows: (7-1-80)

a. One (1) representative recommended by the State Board of Medicine; and (4-8-94)

b. One (1) representative recommended by the Idaho Chapter of ACEP; and (4-8-94)

c. One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons; and (4-8-94)

d. One (1) representative recommended by the State Board of Nursing; and (4-8-94)

e. One (1) representative recommended by the Idaho Medical Association; and (4-8-94)

f. One (1) representative recommended by the Idaho Hospital Association; and (4-8-94)

g. One (1) representative of local government recommended by the Idaho Association of Counties; and (4-8-94)

h. One (1) representative of a career third service EMS/Ambulance organization; and (4-8-94)

i. One (1) representative of a volunteer third service EMS/Ambulance organization; and (4-8-94)

j. One (1) representative of a third service non-transport EMS organization; and (4-8-94)

k. One (1) representative of a fire department based EMS/Ambulance recommended by the Idaho Fire Chiefs Association; and (4-8-94)

l. One (1) representative of a fire department based non-transport EMS organization; and (4-8-94)

m. One (1) representative of an air medical EMS organization; and (7-1-97)

n. One (1) Emergency Medical Technician-Basic who represents the interests of Idaho providers certified at that level; and (4-8-94)

o. One (1) Advanced Emergency Medical Technician Ambulance who represents the interests of Idaho providers certified at that level; and (7-1-97)

p. One (1) Emergency Medical Technician-Paramedic who represents the interests of Idaho providers certified at that level; and (4-8-94)

q. One (1) representative who is an administrative county EMS director; and (4-8-94)

r. One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators; and (4-8-94)

s. One (1) consumer. (4-8-94)

t. One (1) representative of a private EMS transport organization. ( )

02. Responsibilities. The EMS Advisory Committee will meet at least annually or as needed for the purposes of: (7-1-80)

a. Reviewing policies and procedures for provision of emergency medical services and recommending same to the Division; (11-19-76)

b. Reviewing EMS training curricula, training standards, and examination processes and recommending same to the Division; (4-8-94)

c. Reviewing EMS candidate selection policy and candidate performance requirements and recommending to the Division certification of standards for EMS personnel; (7-1-97)

d. Reviewing and making recommendations for disciplinary action regarding EMS personnel who

have not complied with EMS policies; (11-19-76)

e. Reviewing and making recommendations on the licensing of ambulance services in Idaho. (11-19-76)

f. Reviewing and making recommendations on the licensing of non-transport services in Idaho. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

302. -- 3~~9~~19. (RESERVED).

320. DESIGNATION OF CLINICAL CAPABILITY.

All ambulance and non-transport licenses issued by the EMS Bureau shall indicate the clinical level of service which can be provided by the ambulance or non-transport service. Designation of services which function at or above the ALS level shall be issued in accordance with Section 340 of these rules. Licensed EMS Services may function at one (1) or more ALS levels corresponding to the designation issued by the EMS Bureau as a result of the application and inspection process required in Sections 300 and 301 of these rules. ( )

321. -- 324. (RESERVED).

325. PREHOSPITAL ADVANCED LIFE SUPPORT STANDARDS.

Prehospital ALS designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established under IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, for the purposes of responding to emergencies in any 911 service area, standby, or other area on an emergency basis. Designation shall be for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify for Prehospital ALS designation if the following criteria are met: ( )

01. Personnel. The agency must have a sufficient number of EMT-Paramedics to assure availability of such personnel corresponding to the anticipated call volume of the agency. The agency is specifically prohibited from utilizing other licensed health care providers for prehospital and emergency responses to requests for EMS unless they are accompanied by or cross-trained and certified as an EMT-Paramedic. ( )

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. ( )

b. An agency may employ Ambulance-Based Clinicians who function with an EMT-P or are cross-trained and certified as an EMT-P. The agency shall verify that all Ambulance-Based Clinicians have successfully completed a formal training program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. ( )

c. Personnel shall initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 012.01.b. ( )

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. ( )

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. ( )

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. ( )

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the Paramedic Ambulance section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ( )

04. Administrative License Action. A Prehospital ALS designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds critical care transfer service designation in accordance with Section 335 of these rules. ( )

326. -- 329. (RESERVED).

330. ADVANCED LIFE SUPPORT TRANSFER STANDARDS.

ALS Transfer designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established under IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, for the purposes of providing medical care and transportation between medical care facilities. ALS Transfer designation is not required when any sending or receiving medical care facility provides clinical personnel and equipment to augment patient care provided that this is done on an occasional basis, and the medical care facility has assured that the clinical personnel have knowledge and skills corresponding to the anticipated needs and condition of the patient. Designation shall be for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Sections 300 or 301 of these rules may qualify for ALS Transfer designation if the following criteria are met: ( )

01. Personnel. The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. ( )

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. ( )

b. An agency which will advertise or provide ALS transfer of patients may employ Ambulance-Based Clinicians as the medical care provider for those patients. The agency shall verify that all Ambulance-Based Clinicians have successfully completed a formal training program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. ( )

c. Personnel shall initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 012.01.b. ( )

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. ( )

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. ( )

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. ( )

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the Paramedic Ambulance section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ( )

04. Administrative License Action. An ALS Transfer designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising or responding to prehospital and emergency requests for ALS unless the agency also holds prehospital ALS designation in accordance with Section 325 of these rules. The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds critical care transfer service designation in accordance with Section 335 of these rules. ( )

331. -- 334. (RESERVED).

335. CRITICAL CARE TRANSFER SERVICE STANDARDS.

Critical Care Transfer Service designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities requiring knowledge or skills not contained within the EMT-Paramedic curriculum approved by the State Health Officer. Critical Care Transfer Service designation is not required when any sending or receiving medical care facility provides clinical personnel and equipment to augment patient care provided that this is done on an occasional basis, and the medical care facility has assured that the clinical personnel have knowledge and skills corresponding to the anticipated needs and condition of the patient. Designation shall be for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 of these rules may qualify for Critical Care Transfer Service designation if the following criteria are met: ( )

01. Personnel. The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. ( )

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. All EMT-Paramedics who will be the primary or the only care provider during critical care transfers must have successfully completed a formal training program in critical care transport which meets or exceeds the objectives of the curriculum approved by the State Health Officer. ( )

b. An agency which will advertise or provide ALS transfer of patients may employ Ambulance-Based Clinicians as the medical care provider for those patients. The agency shall verify that all Ambulance-Based Clinicians have successfully completed a formal training program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. ( )

c. Personnel shall initiate critical care as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 012.01.b. ( )

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. ( )

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. ( )

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. ( )

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the Paramedic Ambulance section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ( )

04. Administrative License Action. A Critical Care Transfer Service designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising or responding to prehospital and emergency requests for ALS unless the agency also holds prehospital ALS designation in accordance with Section 325 of these rules. ( )

336. -- 339. (RESERVED).

340. ALS DESIGNATION CATEGORIES.
Licensed EMS services are permitted to hold any combination of designations achieved by meeting the standards in Sections 325, 330, and 335 of these rules. Licenses or the designations associated with them can not be assigned or transferred. A standard system of designation shall be used by the EMS Bureau to define which combination of clinical capabilities has been demonstrated by each ALS licensed EMS service. ( )

01. An ALS Level I. An ALS Level I license shall be issued by the EMS Bureau to any applicant which meets the requirements in Sections 325, 330 and 335 of these rules. ( )

02. An ALS Level II. An ALS Level II license shall be issued by the EMS Bureau to any applicant which meets the requirements in Sections 325 and 330 of these rules. ( )

03. An ALS Level III. An ALS Level III license shall be issued by the EMS Bureau to any applicant which meets the requirements in Sections 330 and 335 of these rules. ( )

04. An ALS Level IV. An ALS Level IV license shall be issued by the EMS Bureau to any applicant which meets the requirements in Section 330 of these rules. ( )

341. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

515. ADMINISTRATIVE LICENSE ACTION.
Any license or certification may be suspended, revoked, denied, or retained only upon compliance with conditions imposed by the Bureau Chief, for any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established by these rules, including but not limited to the following: (7-1-97)

01. Any Violation. Any violation of these rules. (7-1-97)

02. Failure To Maintain Standards of Knowledge and/or Proficiency. Failure to maintain standards of knowledge and/or proficiency required under these rules. (7-1-97)

03. A Lawful Finding. A lawful finding of mental incompetency. (7-1-97)

04. Performance of Duties. Performance of duties pursuant to said license or certificate while under the influence of alcohol or any illegal substance. (7-1-97)

05. Any Conduct, Action, or Conviction. Any conduct, action, or conviction which does or would result in denial without exemption of a criminal history clearance under IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (7-1-97)

06. Discipline, Restriction, Suspension or Revocation. Discipline, restriction, suspension or revocation

in any other jurisdiction. (7-1-97)

07. Any Conduct, Condition, or Circumstance. Any conduct, condition, or circumstance determined by the Bureau Chief which constitutes a danger or threat to the health, safety, or well-being of persons or property. (7-1-97)

08. Performing Any Medical Procedure or Providing Medication. Performing any medical procedure or providing medication which deviates from or exceeds the scope of practice for the corresponding level of certification established under IDAPA 22.01.06, "Rules for EMS Personnel". (7-1-97)

09. Providing Any Service Without Licensure or Designation. Advertising or providing any service which exceeds the level of licensure and ALS designation; responding to any jurisdiction outside of the coverage area declared on the current EMS service application, with the exception of responses to any locally declared disaster when the response is specifically requested by the incident commander or his designee; or responding in a manner which is in violation of the county EMS ordinance in which the call originates. ( )

10. Falsification of Applications or Reports. The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. ( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.28 - REGISTRATION OF FREE MEDICAL CLINICS

DOCKET NO. 16-0228-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 7, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) HB 567, 39-77, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Many Idahoans who may otherwise be unable to receive health care are provided services through free medical clinics. The health care professionals rendering these services do so without compensation. This law/rule encourages this voluntary provision of health services by granting immunity from liability to health care providers donating medical care through community-based clinics registered with the Idaho Department of Health and Welfare.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

To comply with Title 39, Chapter 77, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jane S. Smith at, (208) 334-5932.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0228-9801

IDAPA 16
TITLE 02
Chapter 28

16.02.28 - REGISTRATION OF FREE MEDICAL CLINICS

000. LEGAL AUTHORITY.
Title 39, Chapter 77, Idaho Code grants to the Department of Health and Welfare the authority to register free medical clinics. (10-7-98)T

001. TITLE AND SCOPE.

01. Title. These rules shall be known as the Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 28, "Registration of Free Medical Clinics". (10-7-98)T

02. Scope. These rules govern the methods and procedures for registration, maintenance of registered status and revocation as contemplated by Title 39, Chapter 77, Idaho Code. (10-7-98)T

002. WRITTEN INTERPRETATIONS.
For written interpretations write to Vital Statistics, Division of Health, Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-7-98)T

003. ADMINISTRATIVE APPEALS.
Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03.000, et seq., "Rules Governing Contested Cases and Declaratory Rulings". (10-7-98)T

004. DEFINITIONS.

01. Department. Shall mean the Idaho Department of Health and Welfare. (10-7-98)T

02. Presumption. Unless otherwise defined in these rules or required by the context, terms used in these rules shall have the same meaning as provided in Section 39-7702, Idaho Code. (10-7-98)T

03. Registrar. Shall have the definition set forth in Section 39-241, Idaho Code. (10-7-98)T

005. -- 051. (RESERVED).

052. REGISTRATION OF FREE MEDICAL CLINICS.

01. Registration. Free medical clinics may register with the Department of Health and Welfare by complying with the procedures set forth in these rules. (10-7-98)T

02. Form. Applications for registration as a free medical clinic shall be submitted on a form designated and provided by the Department. Forms may be obtained without cost from the registrar of Vital Statistics. (10-7-98)T

03. Registration Fee. The fee for registration shall be fifty dollars ($50). No application for registration shall be accepted by the Department unless accompanied by the required registration fee. (10-7-98)T

04. Submission. Applications for registration shall be submitted to the registrar of Vital Statistics. (10-7-98)T

05. Letter Of Registration. The Department shall review applications for registration and confirm that all required information has been provided. No application shall be accepted unless all blanks are completed or the

absence of information is explained to the satisfaction of the registrar. Upon approval by the Department, the registrar will issue a letter acknowledging registration of the free medical clinic. (10-7-98)T

06. Effectiveness. Registrations shall be effective as of the date the complete application for registration was approved and signed by the registrar. (10-7-98)T

053. MAINTENANCE OF REGISTRATION.

No renewal of registration shall be required. However, it shall be the duty of the free medical clinic to promptly correct or update any information provided for registration purposes should it be determined that such information has changed or is inaccurate. Failure to promptly correct or update information shall be grounds for revocation. (10-7-98)T

054. PROOF OF COMPLIANCE.

01. Application Information. Free medical clinics shall promptly provide documentation of any information contained in the application for registration upon request by the Department. (10-7-98)T

02. Statutorily Required Records. Free medical clinics shall promptly furnish those records it is required to keep pursuant to Section 39-7704, Idaho Code, upon request by the Department. (10-7-98)T

03. Failure To Provide Records. Failure to promptly provide the records and documentation required by this section shall be grounds for revocation. (10-7-98)T

055. REVOCATION.

01. Grounds For Revocation. Registration of a free medical clinic may be revoked by the Department for: (10-7-98)T

a. Violation of the requirements of Section 39-7705, Idaho Code or these rules; (10-7-98)T

b. Providing incomplete, false, inaccurate or misleading information in the application for registration or in response to a request for records or documentation by the Department; (10-7-98)T

c. Failing to promptly provide the records or documentation required by these rules. (10-7-98)T

02. Who May Report Violation. Any person may report circumstances providing grounds for revocation to the Department. (10-7-98)T

03. Application Pending Revocation. No application for a new registration shall be accepted from a free medical clinic while a proceeding for revocation of an existing registration is pending. (10-7-98)T

04. Reinstatement. There shall be no reinstatement of a revoked registration. However, this provision shall not prevent a free medical clinic from making application for a new registration after revocation proceedings have been completed and become final. (10-7-98)T

056. -- 995. (RESERVED).

996. CONFIDENTIALITY.

Information required for registration pursuant to Section 39-7704(1), Idaho Code, shall be available for public inspection. Information acquired in the course of an investigation or proceeding relating to the revocation of any registration issued pursuant to these rules shall remain confidential until the agency's action becomes final and thereafter may be subject to disclosure as provided in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01.000, et seq., "Rules Governing the Protection and Disclosure of Department Records". (10-7-98)T

997. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998 and January 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5221(l), 67-5226, and 56-209(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Individuals applying for or receiving Medicaid under the AF related standards must cooperate with CSS to secure financial support for their dependent children.

Adds work requirements for the PWE in a two parent household receiving Medicaid due to unemployment/ underemployment.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0301-9802

208. -- 21~~4~~3. (RESERVED).

21~~5~~4. SOCIAL SECURITY NUMBER.
A participant must provide a Social Security Number (SSN), or proof he has applied for a Social Security Number. The SSN must be verified by the Social Security Administration (SSA). (7-1-98)

21~~6~~5. GROUP HEALTH PLAN ENROLLMENT.
Medicaid participants must apply for and enroll in a cost effective group health plan if one is available. A cost effective health plan is one which has premiums and co-payments at a lower cost than Medicaid would pay for full medical services. Medicaid will pay premiums and other co-payments for plans the Department finds cost effective. (7-1-98)

21~~7~~6. ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AND THIRD PARTY LIABILITY.
By operation of Section 56-203B and Section 56-209b(3), Idaho Code, medical support rights are assigned to the Department by signature on the Medicaid application. The participant~~'s signature is acknowledgment that he understands his rights are assigned and he~~ must cooperate to ~~establish paternity and to~~ secure medical support from any liable third party. The cooperation requirement may be waived if the participant ~~proves he~~ has good cause for not cooperating. ~~Good cause for not cooperating is a situation in which cooperation would not be in the best interest of the participant. Good cause can include situations of rape, incest, or domestic violence that can be proven.~~ ~~(7-1-97)T~~(10-1-98)T

217. COOPERATION WITH CHILD SUPPORT.
The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child support order. The cooperation requirement may be waived if the participant has good cause for not cooperating or if the participant is an individual described in Section 1902(1)(1)(a) of the Social Security Act. These are poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of the child born out of wedlock. Good cause for not cooperating is a situation where cooperation is not in the best interest of the participant. Good cause can include situations of rape, incest, or domestic violence that can be proven. (1-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

220. COOPERATION WITH THE ~~BUREAU OF WELFARE PROGRAMS~~ QUALITY CONTROL ~~UNIT~~ PROCESS.
When ~~Quality Control~~ the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case ~~to verify the findings of the field office~~. ~~(7-1-98)~~(10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

413. LOW INCOME FAMILIES WITH CHILDREN.
Families with minor children in the home, who would be AFDC eligible if the program was in effect, are eligible if non- financial, financial, and the conditions listed in Subsections 413.01 through 413.04 are met. (7-1-98)

01. Living with a Relative. A child must live in a home with an adult caretaker who is related to the child by blood, marriage, or adoption. (7-1-98)

02. Dependent Child. A dependent child is a child under eighteen (18) years of age or, if over eighteen (18) years of age, is expected to graduate from high school by the nineteenth (19th) birthday. (7-1-98)

03. Deprivation. The dependent child must be deprived. Deprivation is the lack of, or interruption in parental care, guidance and support ordinarily received from one (1) or both parents. Deprivation is caused by continued absence, incapacity which is expected to last at least thirty (30) days, death, or the unemployment/

underemployment of the principal wage earner (PWE) parent. An incapacitated parent must cooperate with a plan for training, employment or medical treatment. Deprivation based on unemployment or underemployment exists if the family meets financial requirements. If the receipt of unemployment benefits causes financial ineligibility under this coverage group, family members may qualify for Medicaid under FPG coverage groups. The PWE must meet the work requirements in Subsections 413.03.a. through 413.03.c. ~~(7-1-97)T~~(10-1-98)T

a. The PWE must not refuse employment without good cause. (10-1-98)T

b. The PWE must not refuse to apply for and accept UIB. (10-1-98)T

c. The PWE must sign up for all available employment, education and training at DOL. (10-1-98)T

04. One Hundred Eighty-five Percent (185%) Test. The family is ineligible for Medicaid when total gross income exceeds one hundred eighty-five percent (185%) of the monthly need standard. (7-1-98)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES

DOCKET NO. 16-0303-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 and 56-203A, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Requires Medicaid applicants to grant a limited power of attorney to child support services to establish and enforce child support orders; changes distribution of amounts collected through state income tax offsets to comply with federal law; changes distribution of collections to comply with federal law; provides additional good cause exemptions for license suspension; requires the Department of Health and Welfare to release liens in 2 business days if the delinquency is paid in full in cash; adds a section on an obligor's rights with regard to the accuracy of the financial analysis; deletes the section on rescinding a voluntary acknowledgment.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Linda Rodenbach at, (208) 334-0646.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0303-9801

202. ELIGIBILITY FOR MEDICAID.
As a condition of eligibility, the applicants and participants must: (7-1-98)

01. Assign Their Medical Support Rights. Applicants and participants shall assign to Child Support Services all rights to any medical support available under an order of a court or an administrative agency. The assignment shall include the right to third party payments and the right to medical support that accrued prior the date of the assignment. The applicant/recipient shall not be required to assign rights to Medicare benefits. (7-1-98)

02. Grant Limited Power of Attorney. Applicants and participants shall grant a limited power of attorney to Child Support Services to pursue the establishment and enforcement of child support orders. (10-1-98)T

0~~2~~3. Cooperate. If an applicant/participant fails to cooperate, Child Support Services shall notify Medicaid. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

204. DISTRIBUTION OF SUPPORT PAYMENTS.

01. Monthly Application. The amounts collected as support in a month shall first be used to satisfy the current support obligation for that month. The amounts collected in excess of current support will be treated as payments on support arrears. (7-1-98)

02. Date of Collection. The date of collection shall be the date on which the payment is received by the State Disbursement Unit. ~~(7-1-97)T~~(10-1-98)T

03. Distribution of Amounts Collected Through Income Tax Refund Offset. Amounts collected through federal ~~and state~~ income tax refund offset shall be distributed as payment on support arrears. ~~(7-1-97)T~~(10-1-98)T

04. Distribution of Support in Open TAFI Cases. The amounts collected ~~as current support~~ shall be retained by the State to reimburse itself in whole or in part for ~~the temporary~~ unreimbursed cash assistance paid to the recipient ~~payment for that month~~. ~~If the amount collected as current support is greater than the temporary cash assistance payment, the excess shall be paid to the family up to the amount of the current support obligation. Any amounts collected in excess of the current support obligation shall be retained by the State as reimbursement for past assistance payments.~~ The State is limited to reimbursement of past assistance payments by the amount of the total support obligation owed. Any excess amount collected on the past due support obligation that remains after the State has been reimbursed for past assistance will be paid to the family. ~~Collections will be applied to future payments only after all current support and arrears has been satisfied.~~ ~~(7-1-97)T~~(10-1-98)T

05. Distribution Upon Termination of TAFI. ~~Temporary Cash Assistance for Families in Idaho. When a family stops receiving temporary cash assistance, the assignment of support rights ends except as to the unpaid support that accrued prior to or during the assignment.~~ ~~(7-1-97)T~~

~~a.~~ For those cases in which child support services continue after the termination of temporary cash assistance, ~~priority shall be given to the collection of current support~~ current support shall be paid first. Collections which exceed the current support obligation shall be disbursed as follows: ~~(7-1-97)T~~(10-1-98)T

~~b~~a. Through September 30, 199~~7~~8, collections exceeding current support shall be retained by the State to reimburse any amounts of unpaid assistance that accrued prior to the termination of assistance. Any excess collected on the past due support obligation after the State has been reimbursed shall be paid to the family. ~~(7-1-97)T~~(10-1-98)T

~~c~~b. From and after October 1, 199~~7~~8, collections exceeding current support shall first be distributed to the family for any arrears that accumulated before or after the termination of temporary cash assistance. Any excess

collected that exceeds the arrears owed to the family shall be retained by the State for reimbursement of assistance up to the amount of the unreimbursed assistance. ~~(7-1-97)T~~(10-1-98)T

06. Distribution of Assigned Medical Support. Any amounts collected which represent specific dollar amounts owed for medical support shall be forwarded to the Medicaid agency for distribution. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

604. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definition. "Person" means an individual. (7-1-98)

02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (7-1-98)

03. Good Cause. A license suspension shall be denied or stayed if the obligor proves that one (1) of the following has resulted in a current inability to pay the child support obligation: (7-1-98)

a. The obligor is physically disabled; (7-1-98)

b. The obligor is experiencing the effects of an extended illness or accident; (7-1-98)

c. The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; or (7-1-98)

d. The obligor is incarcerated in any county or state facility, and proves that he or she has no assets. (7-1-98)

e. The obligor is receiving TAFI. (10-1-98)T

f. The obligor has legal and physical custody of all of the children listed in the order or orders for support. (10-1-98)T

g. Child support is being collected directly from the obligor's income through an income withholding order issued by the Department to the obligor's employer or other income source. (10-1-98)T

04. Not Good Cause. Any factor not defined as good cause in Subsection 604.03 is not good cause for a denial or stay of a license suspension, including but not limited to the following: (7-1-98)

a. The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (7-1-98)

b. The obligor is disabled but has not applied for disability or other benefits, or has been refused benefits; (7-1-98)

c. The obligor asserts that the child support obligation is too high; (7-1-98)

d. The obligor has been denied full visitation with the child or children; or (7-1-98)

e. The obligor alleges the obligee misuses the child support. (7-1-98)

605. ~~-- 699.~~ ~~(RESERVED)~~ RELEASE OF LIENS.
A perfected state lien for a child support delinquency shall be automatically released when the delinquency reaches a zero (0) balance or is otherwise satisfied. The Department shall file a notice of release within two (2) business days if

the delinquency is paid in full by cash, cashier's check or money order. The Department shall file a notice of release within thirty (30) days if the delinquency is paid in full by personal check. (10-1-98)T

606. OBLIGOR'S RIGHTS.

An obligor has the right to receive an accurate accounting of child support payments received upon request. Upon receipt of a request from an obligor, the Department shall send the obligor a financial analysis showing the history of child support accruals and payments and credits within five (5) business days. The obligor is entitled to challenge the accuracy of the financial analysis. The obligor must provide proof of any alleged error. If the financial analysis is shown to be in error, the Department must see that the financial analysis is corrected and provide a corrected copy to any person or entity who received the erroneous financial analysis. In any event, the obligor will be allowed to insert into the file an explanatory statement which must be signed and dated. (10-1-98)T

~~**700. RESCISSION OF VOLUNTARY ACKNOWLEDGMENTS.**~~

~~A voluntary acknowledgment must be rescinded within sixty (60) days of the signing of the acknowledgment.~~
~~(7-1-98)~~

~~7~~60~~1~~7. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The entire chapter is being repealed and re-written under docket no. 16-0305-9802

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Rule is being re-written for clarity; to increase the income limit for people living independently; to consolidate independent, room, board and home care allowances; to add cost-effective criteria for brain injury patients seeking Home and Community Based Services; to change criteria for allowing extra resources to the at-home spouse of a nursing home patient; to require Medicaid participants to cooperate to obtain cash child support; and to change the basis of the dependent deduction used to calculate patient's share of cost in a nursing home.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

\

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-9802

IDAPA 16
TITLE 03
Chapter 05

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED BLIND AND DISABLED (AABD)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare, according to Sections 56-201 through 56-233, Idaho Code, adopts these rules for the administration of public assistance programs. (10-1-98)T

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho Department of Health and Welfare are known and will be cited as IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". (10-1-98)T

02. Scope. These rules provide standards for issuing AABD cash benefits and related Medicaid. (10-1-98)T

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has written statements interpreting this chapter available for public inspection and copying at cost at the Regional Offices. (10-1-98)T

003. ADMINISTRATIVE APPEALS.
The participant can request a fair hearing to challenge a Department decision under IDAPA 16.05.03, Section 300, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (10-1-98)T

004. RULE AVAILABILITY.
Copies of these rules are available from the Administrative Procedures Section, 10th Floor, Pete T. Cenarrusa Building - 450 West State Street, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-98)T

005. DEFINITIONS.
These definitions apply to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)": (10-1-98)T

01. AABD Cash. A payment to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments. (10-1-98)T

02. Applicant. A person applying for public assistance from the Department, and whose application is not fully processed. (10-1-98)T

03. Child. A child is under age eighteen (18), or under twenty-one (21) and attending school, college, university, or vocational or technical training designed to prepare him for gainful employment. A child is not married. A child is not the head of a household. (10-1-98)T

04. Department. The Department of Health and Welfare. (10-1-98)T

05. Direct Deposit. The electronic deposit of a participant's AABD cash to the participant's personal account with a financial institution. (10-1-98)T

06. Electronic Benefits Transfer (EBT). A method of issuing AABD cash to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments for a participant. EBT rules are in IDAPA 16.03.20, "Rules Governing Electronic Benefits Transfer (EBT) of Public Assistance and Food Stamps". (10-1-98)T

07. Essential Person. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person provides services a participant needs to live at home. (10-1-98)T

08. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act). (10-1-98)T

09. Medical Assistance Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Rules Governing Medical Assistance". (10-1-98)T

10. Medicaid for Families with Children Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children". (10-1-98)T

11. Participant. An individual applying for or receiving assistance. (10-1-98)T

12. Sole Beneficiary. The only beneficiary of a trust, including a beneficiary during the grantor's life, a beneficiary with a future interest, and a beneficiary by the grantor's will. (10-1-98)T

13. TAFI Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho". (10-1-98)T

14. Working Day. A calendar day when regular office hours are observed by the state of Idaho. (10-1-98)T

006. ABBREVIATIONS.

01. AABD. Aid to the Aged, Blind and Disabled. (10-1-98)T

02. AB. Aid to the Blind. (10-1-98)T

03. AFA. Application for Assistance. (10-1-98)T

04. APTD. Aid to the Permanently and Totally Disabled. (10-1-98)T

05. ASVI. Alien Status Verification Index. (10-1-98)T

06. COLA. Cost of Living Adjustment. (10-1-98)T

07. CSA. Community Spouse Allowance. (10-1-98)T

08. CSNS. Community Spouse Need Standard. (10-1-98)T

09. CSRA. Community Spouse Resource Allowance. (10-1-98)T

10. DHW. Department of Health and Welfare. (10-1-98)T

11. EBT. Electronic Benefits Transfer. (10-1-98)T

12. EITC. Earned Income Tax Credit. (10-1-98)T

13. FMA. Family Member Allowance. (10-1-98)T

14. FSI. Federal Spousal Impoverishment. (10-1-98)T

15. HCBS. Home and Community Based Services. (10-1-98)T

16. HUD. The U.S. Department of Housing and Urban Development. (10-1-98)T

17. IEVS. Income and Eligibility Verification System. (10-1-98)T

18. INA. Immigration and Nationality Act. (10-1-98)T

19. IRS. The U.S. Internal Revenue Service. (10-1-98)T

20. MA. Medical Assistance. (10-1-98)T

21. OAA. Old Age Assistance. (10-1-98)T

22. PASS. Plan for Achieving Self-Support. (10-1-98)T

23. RSDI. Retirement, Survivors, and Disability Insurance. (10-1-98)T

24. SAVE. Systematic Alien Verification for Entitlements. (10-1-98)T

25. SSA. Social Security Administration. (10-1-98)T

26. SSI. Supplemental Security Income. (10-1-98)T

27. SSN. Social Security Number. (10-1-98)T

28. TAFI. Temporary Assistance for Families in Idaho. (10-1-98)T

29. UIB. Unemployment Insurance Benefits. (10-1-98)T

30. VA. Veterans Administration. (10-1-98)T

007. -- 049. (RESERVED).

050. APPLICATION FOR ASSISTANCE.
The participant must submit an application form to the Department. An adult participant, a legal guardian or a representative, must sign the application form. (10-1-98)T

051. EFFECTIVE DATE.
The effective date for aid is the first day of the month of application. Medicaid eligibility begins as described in Subsections 051.01 through 051.04. (10-1-98)T

01. AABD Cash and Participant Required to Apply for SSI. When the participant is required to apply for SSI as a condition of AABD cash, the effective date of the AABD cash is the first month the participant gets an SSI payment. If the participant is not eligible for SSI but is eligible for AABD cash, aid is effective the application date. (10-1-98)T

02. Normal Medicaid Eligibility. Medicaid coverage begins on the first day of the application month. (10-1-98)T

03. Retroactive (Backdated) Medicaid Eligibility. Medicaid benefits must be backdated to the first day of the calendar month, for each of the three (3) months before the month of application, if the participant was Medicaid eligible during that month. If the participant is not eligible for Medicaid when he applies, retroactive eligibility is evaluated. (10-1-98)T

04. Ineligible Non-Citizen Medicaid. Ineligible legal or illegal non-citizen coverage is restricted to emergency services. Coverage begins when the emergency treatment is required. Coverage ends with the last day emergency treatment is required. (10-1-98)T

052. PERSONAL INTERVIEW.
Each applicant for AABD must participate in a face-to-face interview unless good cause exists. (10-1-98)T

053. -- 069. (RESERVED).

070. TIME LIMITS.
The application must be processed within forty-five (45) days for an applicant sixty-five (65) years of age or older. The application must be processed within ninety (90) days for a disabled applicant. The time limit can be extended by events beyond the Department's control. (10-1-98)T

071. DEATH OF APPLICANT.
Medicaid can be approved, through the date of death, if an AABD applicant dies before eligibility is determined. (10-1-98)T

072. REQUIRED VERIFICATION.
Applicants must prove their eligibility for aid. The participant is allowed ten (10) calendar days to provide requested proof. The application is denied if the applicant does not provide proof in ten (10) calendar days of the written request and does not have good cause for not providing proof. (10-1-98)T

073. -- 089. (RESERVED).

090. APPLICATIONS FOR MEDICAID.
The Department must examine the potential eligibility of the participant for all Medicaid coverage groups when a participant applies for Medicaid. (10-1-98)T

091. OUT OF STATE APPLICANTS.
A participant receiving AABD cash from another state must not receive AABD cash in Idaho until he is living in Idaho and the cash benefit has ended in the other state. A participant may receive Medicaid in Idaho before AABD cash or Medicaid stops in another state. AABD cash from another state is unearned income for Medicaid. Out-of-state medical coverage is a Medicaid third party resource. Idaho residents temporarily out of the state, and not receiving aid, may apply for aid in Idaho. (10-1-98)T

092. CONCURRENT BENEFIT PROHIBITION.
If a person is potentially eligible for either AABD cash, TAFI, or foster care, only one (1) program may be chosen. (10-1-98)T

093. -- 099. (RESERVED).

100. RESIDENCY.
The participant must be voluntarily living in Idaho and have no immediate intention of leaving. For Medicaid, other persons are Idaho residents if they meet a criteria in Subsections 100.01 through 100.05. (10-1-98)T

01. Foster Child. A participant living in Idaho and receiving child foster care payments from another state. (10-1-98)T

02. Incapable Participant. A participant in an Idaho institution, who became incapable of indicating his state of residency after age twenty-one (21). The participant is a resident of the state where his parent or guardian lives. A participant in an Idaho institution, who became incapable of indicating his state of residency after age twenty-one (21), is a resident of Idaho. (10-1-98)T

03. Placed in Another State by Idaho. A participant placed by the state of Idaho in an institution in another state. (10-1-98)T

04. Homeless. A participant not maintaining a permanent home or having a fixed address who intends to remain in Idaho. (10-1-98)T

05. Migrant. A migrant working and living in Idaho. (10-1-98)T

101. TEMPORARY ABSENCE.
A participant may be temporarily absent from his home and still receive AABD cash and Medicaid. A participant is temporarily absent if he intends to return home within one (1) month. Temporary absence may exceed one (1) month for a child attending school or vocational training or a participant in a medical institution, hospital, or nursing home. (10-1-98)T

102. -- 104. RESERVED.

105. SOCIAL SECURITY NUMBER.
The participant must provide his social security number (SSN). The participant must provide all SSNs if he has more than one (1). AABD must not be denied, delayed, or stopped if the SSN has been applied for, but not issued, by the Social Security Administration (SSA). AN SSN is verified when it is provided to the Department by SSA. (10-1-98)T

106. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.
Individuals must be U.S. citizens or nationals or qualified legal non-citizens to be eligible. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections 106.01 through 106.09 may be eligible. (10-1-98)T

01. Permanent Residents Admitted Before August 22, 1996. Participants must be: (10-1-98)T

a. For AABD cash, legal non-citizens lawfully admitted for permanent residence and getting AABD on August 22, 1996. For Medicaid, legal non-citizens lawfully admitted for permanent residence. (10-1-98)T

b. Legal non-citizens of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence. (10-1-98)T

c. American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes. (10-1-98)T

d. Legal non-citizens who started AABD or SSI before January 1, 1979. (10-1-98)T

02. Battered Non-Citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the U.S. before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA who is: (10-1-98)T

a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (10-1-98)T

b. Blind or disabled of any age under the SSI disability criteria and lawfully admitted for permanent residence; or (10-1-98)T

c. Lawfully admitted for permanent residence and getting AABD. (10-1-98)T

03. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996 must be: (10-1-98)T

a. A veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (10-1-98)T

b. Have lived in the U.S. for at least five (5) years and has forty (40) quarters of work. (10-1-98)T

04. Battered Non-Citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the U.S. on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, or

as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA, who is: (10-1-98)T

a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (10-1-98)T

b. Who has lived in the U.S. for at least five (5) years. (10-1-98)T

05. Refugees. A refugee admitted under Section 207 of the INA, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461 is eligible: (10-1-98)T

a. For seven (7) years from the date of entry; or (10-1-98)T

b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (10-1-98)T

06. Asylees. An asylee admitted under Section 208 of the INA is eligible: (10-1-98)T

a. For seven (7) years from the date asylee status is assigned; or (10-1-98)T

b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (10-1-98)T

07. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA is eligible: (10-1-98)T

a. For seven (7) years from the date deportation was withheld; or (10-1-98)T

b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (10-1-98)T

08. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (10-1-98)T

09. Parolees. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one (1) year, who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (10-1-98)T

107. INSTITUTIONAL STATUS.
An institution provides treatment, services, food, and shelter to four (4) or more people, not related to the owner. A participant living in an ineligible institution an entire calendar month is not eligible for AABD cash, unless he qualifies for the institution payment exception. (10-1-98)T

01. Eligible Institutions. Eligible institutions for AABD and Medicaid are defined in Subsections 107.01.a. through 107.01.c. (10-1-98)T

a. Medical institution. A public or private medical institution, including a hospital, nursing care facility, or an intermediate care facility for the mentally retarded is an eligible institution. A participant is not eligible for AABD cash if he is a resident of a medical institution the full month. (10-1-98)T

b. Child care institution. A non-profit private child care institution is an eligible institution. A public

child care institution with no more than twenty-five (25) beds is an eligible institution. A child care institution must be licensed or approved by the Department. A detention facility for delinquent children is not a child care institution. A child care institution for mental diseases (IMD) is an eligible institution if it has sixteen (16) beds or less. A participant is not eligible for AABD cash if he is a resident of a child care institution the full month. (10-1-98)T

c. Community residence. A community residence is a facility providing food, shelter, and services to residents. A privately operated community residence is an eligible institution. A publicly operated community residence serving no more than sixteen (16) residents is an eligible institution. The Community Restorium in Bonners Ferry, Idaho, is an eligible institution even though more than sixteen (16) residents are served. (10-1-98)T

02. Ineligible Institutions. Ineligible institutions for AABD and Medicaid are defined in Subsections 107.02.a. through 107.02.d. (10-1-98)T

a. Public institution. Public institutions are ineligible institutions unless listed in Subsection 108.01. (10-1-98)T

b. Institution for mental diseases. An institution for mental diseases for adults is an ineligible institution. A facility is an institution for mental diseases if it is maintained primarily for the care and treatment of persons with mental diseases. (10-1-98)T

c. Institution for tuberculosis. An institution for tuberculosis is an ineligible institution. A facility is an institution for tuberculosis if it is maintained primarily for the care and treatment of persons with tuberculosis. (10-1-98)T

d. Correctional institution. A correctional institution is an ineligible institution. A correctional institution is a facility for prisoners, persons detained pending disposition of charges, or held under court order as material witnesses or juveniles. (10-1-98)T

108. AABD ELIGIBILITY IN INELIGIBLE INSTITUTIONS.

A participant may get AABD cash in an ineligible institution or a medical institution if he meets one of the conditions listed in Subsections 108.01 and 108.02. (10-1-98)T

01. First Month in Institution. An AABD participant can get AABD cash for the month he entered the institution. Eligibility for the entry month applies to these residents: (10-1-98)T

a. Resident of a public institution. The person is a resident if he or anyone pays for his food, shelter, and other services in the institution. (10-1-98)T

b. Patient in a medical institution. A patient is a person receiving room, board, and professional services in a medical institution, including an institution for tuberculosis or mental diseases. (10-1-98)T

02. Temporary Institution Stay. An AABD participant can get up to three (3) months' AABD payment during a temporary stay in an institution. A participant entering a public medical or psychiatric institution, a hospital, a nursing facility, or an ICF/MR may continue to get AABD payments. The Department must receive the temporary stay data no later than the ninetieth full day of confinement, or the release date, whichever is first. The payments may continue up to three (3) months if these conditions are met: (10-1-98)T

a. The Department is informed of the institutional stay. (10-1-98)T

b. A physician certifies the participant's stay is not likely to exceed three (3) full months. (10-1-98)T

c. A signed statement from the participant or a responsible party showing the participant's need to continue to maintain and pay for the place he intends to return to live. (10-1-98)T

109. CONDITIONS FOR TEMPORARY AABD IN INSTITUTIONS.

Special conditions for AABD when a participant is in an institution are listed in Subsections 109.01 through 109.05. (10-1-98)T

01. Living Arrangement. AABD cash is paid based on the participant's living arrangement the month before the first month in the institution. Changes in living arrangement costs are used to determine AABD cash eligibility and benefit amount. (10-1-98)T

02. Participant Becomes Ineligible. If the participant becomes ineligible for AABD during his temporary institutional stay, his AABD payment must be ended after proper notice. (10-1-98)T

03. AABD Status. A participant must get AABD for the month he enters the institution to receive continued AABD payments. (10-1-98)T

04. Counting Three (3) Full Months. A full month is a month the participant is in the institution every day of the month. If the participant enters after the first day of a month, the month of entry is not included in the three (3) full months. If the participant is discharged before the last day of the month, the month of discharge is not included in the three (3) full months. (10-1-98)T

05. SSI Benefits. If SSA decides a participant's SSI benefit will continue while the participant is in the institution, AABD payments can also continue. (10-1-98)T

110. -- 128. (RESERVED).

129. PARTICIPANT'S GUARDIAN FOR AABD CASH.
A court appointed guardian can manage AABD cash for a participant who is not competent to do so. The Department may petition the District Court to appoint a guardian if one is needed. (10-1-98)T

130. ESTATE NOT IN PROBATE.
An administrator for public aid for a deceased participant's AABD cash can be court appointed. The administrator must spend AABD cash, accessible through EBT before the participant's death, for the estate. The AABD cash can only be spent to meet the needs of the participant, or his dependents, for the month it was paid. If a participant had no debts for himself, or his dependents, the administrator must return the AABD cash to the Department. AABD benefits paid by direct deposit or posted to the participant's EBT account, after the participant's death, are the property of the state of Idaho. (10-1-98)T

131. ESTATE IN PROBATE.
AABD cash received by a participant before his death is disbursed as part of the participant's estate, if it is probated. The probate administrator spends the AABD cash under his oath of administration. (10-1-98)T

132. -- 154. (RESERVED).

155. AABD FOR THE AGED.
To qualify for AABD for the aged, a person must be age sixty-five (65) or older. (10-1-98)T

156. AABD FOR THE DISABLED.
To qualify for AABD for the blind or disabled, a person must meet the definition of blindness or disability used by the SSA for RSDI and SSI benefits. (10-1-98)T

01. SSA Decision for Disabled. SSA's disability decision is binding on the Department unless: (10-1-98)T

a. The participant states his disabling condition is different from, or in addition to, his condition considered by SSA, and the participant has not reapplied for SSI; or (10-1-98)T

b. More than twelve (12) months have passed since the SSA made a final determination the participant was not disabled, and the participant states his condition has changed or become worse since that final determination, and the participant has not reapplied for SSI. (10-1-98)T

02. Medicaid Pending SSA Appeal. When SSA decides a participant is no longer disabled, he meets

the AABD disability requirement and can continue receiving Medicaid if he appeals SSA's decision. Medicaid ends if the SSA decision is upheld. (10-1-98)T

03. Grandfathered Participant for Aid to The Permanently and Totally Disabled (APTD) or Aid to the Blind (AB). A participant is disabled if he was eligible as disabled in December 1973, and continues to meet the disability requirement in effect in December 1973. He must also meet the other current eligibility requirements. (10-1-98)T

157. -- 165. (RESERVED).

166. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A participant is ineligible to receive AABD for any month during which he is fleeing to avoid prosecution for a felony, fleeing to avoid custody or confinement after a felony conviction, or violating a federal or state condition of probation or parole. (10-1-98)T

167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.
A participant is ineligible for AABD for ten (10) years if he was convicted in a federal or state court of having fraudulently misrepresented residence to get AABD, SSI, TAFI, Food Stamps or Medicaid from two (2) or more states at the same time. (10-1-98)T

168. -- 199. (RESERVED).

200. RESOURCES DEFINED.
Resources are cash, personal property, and real property. A participant, or spouse, must have the right, authority, or power to convert the resource to cash. The participant must have the legal right to use the resource for support and maintenance. (10-1-98)T

201. RESOURCE LIMIT.
The value of countable resources must be two thousand dollars ($2,000) or less, for a single person to be AABD eligible. A married person must have countable resources of three thousand dollars ($3,000) or less to be eligible for AABD cash. Resources are counted the first moment of each calendar month and apply to the entire month. (10-1-98)T

202. CHANGE IN VALUE OF RESOURCES.
A change in the value of resources is counted the first moment of the next month. (10-1-98)T

203. RESOURCES AND CHANGE IN MARITAL STATUS.
A change in marital status changes the resource limit. The resource limit change is effective the month after individual participants are married, divorced, separated, or one (1) spouse dies. (10-1-98)T

204. FACTORS MAKING PROPERTY A RESOURCE.
Property of any kind is a resource if the participant has an ownership interest in the property and the legal right to spend or convert the property to cash. (10-1-98)T

205. COUNTING RESOURCES AND INCOME.
An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource. (10-1-98)T

206. TYPES OF RESOURCES.
Liquid resources are resources in cash or resources convertible to cash within twenty (20) working days. Nonliquid resources are any resources, not in the form of cash, which cannot be converted to cash within twenty (20) workdays. (10-1-98)T

207. EQUITY VALUE OF RESOURCES.
Equity value is the fair market value of a resource, minus any debts on it. (10-1-98)T

208. SHARED OWNERSHIP RULE.

Except for checking and savings accounts and time deposits, each owner of shared property owns only his fractional interest in the property. The total value of the property is divided among the owners, in direct proportion to each owner's share. (10-1-98)T

209. -- 214. (RESERVED).

215. DEEMING RESOURCES.

Resources are deemed from a spouse to a participant, from a parent or spouse of a parent to a child participant, from an essential person to a participant, or from a sponsor to a legal non-citizen participant. Resource deeming is determined by the participant's circumstances the first moment of the month. Deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (10-1-98)T

01. Spouse of Adult Participant. When a participant lives with a spouse, his resources include those of the spouse. The resource limit is for a couple, when the spouse was a member of the household as of the first moment of the benefit month. The AABD resource exclusions are subtracted. Pension funds the ineligible spouse has on deposit are excluded. (10-1-98)T

02. Resources of Parent(s) of Child under Age Eighteen (18). When a child participant, under age eighteen (18), is living with his parent or the spouse of his parent, their resources are deemed to the child. When there is more than one (1) child participant in the household, deemed parental resources are divided equally among the child AABD cash participants. When the child lives with one (1) parent, resources over the single person resource limit are deemed to the child. When the child lives with both parents, resources over the couple limit are deemed to the child. A stepparent's resources are not deemed to the child for Medicaid eligibility. A stepparent's resources are deemed to the child for AABD cash. Resources and exclusions of the child participant, and the parents, are computed separately. (10-1-98)T

03. Resources of Essential Person of Participant. When a participant lives with an essential person, the resources of the essential person are deemed to the participant. The essential person's countable resources are combined with the participant's countable resources. When the essential person is not the participant's spouse, the single person resource limit is used. When the essential person is the participant's ineligible spouse, the couple resource limit is used. (10-1-98)T

04. Resources of Legal Non-Citizen's Sponsor - No I-864 Signed. A legal non-citizen's resources include those of his sponsor and of the sponsor's spouse. When the sponsor has not signed an I-864 affidavit of support, the resources deeming period is three (3) years after the legal non-citizen's admission to the U.S. A sponsor's resources are not deemed to the legal non-citizen for Medicaid eligibility. (10-1-98)T

a. If the sponsor does not have a spouse living with him, the sponsor's countable resources over the single person resource limit are deemed to the legal non-citizen participant. (10-1-98)T

b. If the sponsor's spouse lives with him, the sponsor couple's resources over the couple resource limit are deemed to the legal non-citizen participant. (10-1-98)T

c. If a person sponsors two (2) or more legal non-citizen participants, the sponsor's deemed resources are divided and deemed equally to the legal non-citizen participants. (10-1-98)T

05. Resources of Legal Non-Citizen's Sponsor - I-864 Signed. For a legal non-citizen admitted to the U.S. on or after August 22, 1996, whose sponsor has signed an I-864 affidavit of support, all resources of the sponsor and sponsor's spouse are deemed to the legal non-citizen for AABD cash and Medicaid eligibility. (10-1-98)T

216. HOUSEHOLD FOR RESOURCE COMPUTATIONS.

A participant living in an institution is not a household for resource computations. (10-1-98)T

217. UNKNOWN RESOURCES.

An asset is not a resource if the participant is unaware of his ownership. The asset is a resource the month after

discovery. (10-1-98)T

218. -- 221. (RESERVED).

222. VEHICLES.
Vehicles are excluded as resources as described in Subsections 222.01 through 222.02. If more than one (1) vehicle is owned, the exclusion applies in the best way for the participant. (10-1-98)T

01. One (1) Vehicle Excluded. One (1) vehicle is excluded, regardless of value if the vehicle is: (10-1-98)T

a. Necessary for employment. (10-1-98)T

b. Necessary for the treatment of a specific or regular medical problem. (10-1-98)T

c. Modified for operation by, or the transportation of, a handicapped person. (10-1-98)T

d. Necessary, because of climate, terrain, distance or similar factors, for the performance of essential daily activities. (10-1-98)T

02. Vehicle Value Excluded Up to Four Thousand Five Hundred Dollars ($4,500). If no vehicle is excluded under Subsection 222.01, one (1) vehicle is excluded up to a fair market value of four thousand five hundred dollars ($4,500). If the fair market value exceeds four thousand five hundred dollars ($4,500), the excess value counts as a resource. (10-1-98)T

03. Other Vehicles Not Excluded. The equity value of a vehicle not excluded under Subsection 222.01 or 222.02, is a resource. (10-1-98)T

223. BURIAL FUNDS EXCLUDED FROM RESOURCE LIMIT.
Burial funds up to one thousand five hundred dollars ($1,500) per person, set aside for the burial expenses of the participant or spouse, are excluded from resources. To be excluded, burial funds must be kept separate from assets not burial related. A burial contract that can be revoked or sold, without significant hardship, is a resource. Any portion of the contract for the purchase of burial spaces is excluded from resources. A burial contract that cannot be revoked, and cannot be sold without significant hardship, is not a resource. The burial fund portion of the contract counts against the one thousand five hundred dollar ($1,500) burial funds exclusion. The burial space portion of the contract does not count against the burial funds exclusion. (10-1-98)T

01. Life Insurance Policy as Burial Funds. The participant can designate a countable life insurance policy as a burial fund. The face value of excluded life insurance policies on the participant counts against the burial funds exclusion. (10-1-98)T

02. Face Value of Burial Insurance Policies Not Counted. The face value of burial insurance policies does not count toward the one thousand five hundred dollar ($1,500) life insurance limit, when computing the total face value of life insurance policies owned by a participant. Interest on excluded burial funds does not count toward the one thousand five hundred dollars ($1,500) burial funds exclusion. (10-1-98)T

03. Effective Date of Burial Funds Exclusion. The exclusion is effective the month after the month the funds were set aside. Burial funds can be designated retroactively, back to the first day of the month the participant intended the funds to be set aside. The participant must confirm the designation in writing. (10-1-98)T

04. Penalty For Misusing Burial Funds. If the participant does not get SSI, burial funds used for another purpose lose the exclusion. An overpayment must be recovered. If the participant gets SSI, and is penalized by SSA because he used excluded burial funds for another purpose, his AABD payment must not be increased to compensate the SSA penalty. (10-1-98)T

224. BURIAL SPACE OR PLOT EXCLUSION.
A burial space is a burial plot, grave site, crypt, mausoleum, casket, urn, niche, or other repository normally used for

the deceased's remains. A burial space, or burial space purchase agreement, held for the burial of the participant, spouse, or other member of his immediate family is an excluded resource. (10-1-98)T

01. Burial Space Contract. The burial space contract must list all burial spaces and include a value for each space or the total value of all the spaces. The contract must not require further payment after the contract is signed. (10-1-98)T

02. Space Held By Ineligibles Excluded. A space held by an ineligible spouse or parent, for the burial of a participant, spouse, and any member of the participant's immediate family, is excluded. A space held by a legal non-citizen sponsor, or essential person, for his own burial is excluded only if the sponsor is a member of the participant's immediate family. (10-1-98)T

225. -- 231. (RESERVED).

232. HOUSEHOLD GOODS DEFINITION.
Household goods are items of personal property normally found in the home. The items must be used for maintenance, use, and occupancy of the participant's home. (10-1-98)T

233. PERSONAL EFFECTS DEFINITION.
Personal effects are items worn or carried by a participant, or items having an intimate relation to the participant. (10-1-98)T

234. PERSONAL PROPERTY DEFINITION.
Personal property is any property not real property. (10-1-98)T

235. FULLY EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS.
One (1) wedding ring and one (1) engagement ring, per participant, are excluded regardless of value. Medical equipment and other items required by a person's physical condition are excluded, regardless of value. (10-1-98)T

236. EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS.
Two thousand dollars ($2,000) equity value of household goods and personal effects is not counted toward the resource limit. (10-1-98)T

237. REAL PROPERTY DEFINITION.
Real property is land, including buildings or immovable objects attached permanently to the land. Real property is a resource unless excluded. (10-1-98)T

238. HOME EXCLUDED AS RESOURCE.
The value of a participant's home is an excluded resource. A participant's home is property he owns, serving as his principal place of residence. His principal place of residence is the place he considers his principal home. If the participant is absent from his home, it is still his principal place of residence, if he intends to return. (10-1-98)T

239. SALE OF EXCLUDED HOME AND REPLACEMENT.
If the participant plans to buy another excluded home, proceeds from the sale of a participant's excluded home are excluded resources. Proceeds from the sale of an excluded home must be used to replace the home within three (3) calendar months. Proceeds retained beyond three (3) calendar months are a countable resource. (10-1-98)T

240. REPLACEMENT OF EXCLUDED RESOURCES.
Cash and in-kind payments for replacement or repair of lost, damaged, or stolen excluded resources, are excluded resources for nine (9) months from the date received. This exclusion can be extended for cash payments, up to an additional nine (9) months. The extension can be made if, for the first nine (9) months, circumstances beyond the participant's control prevent repair or replacement of the lost, damaged or stolen property and keep the participant from contracting for repair or replacement. This exclusion can be extended for twelve (12) more months for a catastrophe the President declares a major disaster. Interest earned by funds excluded under this provision is excluded from resources. (10-1-98)T

241. UNDUE HARDSHIP EXCLUSION FROM SALE OF JOINTLY-OWNED REAL PROPERTY.
A participant's ownership interest, in jointly-owned real property, is an excluded resource, as long as sale of the property will cause undue hardship to a co-owner. Undue hardship results if a co-owner uses the property as his principal place of residence, would have to move if the property were sold, and has no other readily available housing. (10-1-98)T

242. TRUST OR RESTRICTED INDIAN LANDS EXCLUDED.
Restricted allotted land, owned by a participant who is of Indian descent from a Federally recognized Indian tribe, is an excluded resource if the participant cannot sell, transfer or otherwise dispose of it without permission from other participants, his tribe or an agency of the Federal Government. (10-1-98)T

243. RESOURCES ASSOCIATED WITH PROPERTY.
Resources associated with real property are mineral rights, timber rights, easements, leaseholds, water rights, remainder interests, and sale of natural resources. These resources are counted as real property. (10-1-98)T

244. RESOURCES ESSENTIAL FOR SELF-SUPPORT EXCLUDED.
Resources are excluded as essential to self-support, if they fall into one (1) of the categories described in Subsections 244.01 through 244.03. (10-1-98)T

01. Essential Property in Current Use. Property in current use in the type of activity that qualifies it as essential to self-support is excluded, regardless of value or rate of return. Trade or business property, government permits, and personal property used by an employee for work are excluded regardless of value or rate of return. If the property is not in current use, for reasons beyond the participant’s control, there must be a reasonable expectation the required use will resume. If the participant does not intend to resume the self-support activity, the property is a countable resource for the month after the month of last use. (10-1-98)T

02. Nonbusiness Property Producing Goods or Services. Up to six thousand dollars ($6,000) of the equity value of nonbusiness property, used to produce goods or services essential to daily activities, is excluded regardless of rate of return. Equity value over six thousand dollars ($6,000) is not excluded. This exclusion is not used for income producing property. (10-1-98)T

03. Nonbusiness Income Producing Property. Up to six thousand dollars ($6,000) equity in nonbusiness income producing property is excluded if it produces at least a six percent (6%) rate of return. The property must produce a net annual return equal to at least six percent (6%) of the excluded equity. If a participant owns more than one (1) piece of income producing property, the six percent (6%) return requirement applies to each. The six thousand dollars ($6,000) equity value limit applies to the total equity value of all the properties meeting the six percent (6%) return requirement. If the earnings decline is for reasons beyond the participant's control, up to twenty-four (24) months can be allowed for the property to resume producing a six percent (6%) return. If the property still is not producing a six percent (6%) return at the end of the twenty-four (24) month extension, the resource exclusion must end the month after the month the twenty-four (24) month period ends. (10-1-98)T

245. RESOURCES SET ASIDE AS PART OF A PLAN FOR ACHIEVING SELF-SUPPORT (PASS) EXCLUDED.
PASS allows blind and disabled participants to set aside income and resources necessary for the achievement of its goals. Resources set aside as part of an approved PASS are excluded. The PASS disregard must not be applied to resources unless the participant would be ineligible due to excess resources. To disregard resources, the PASS must show how resources the participant has or will receive under the plan, will be used to obtain the PASS goal. The PASS must show how the disregarded resources will be identified separately from the participant's other resources. The PASS must list items or activities requiring savings or purchases and the amounts the participant anticipates saving or spending. The PASS must show a specific target date to achieve the objective. (10-1-98)T

246. -- 254. (RESERVED).

255. RETROACTIVE SSI AND AABD BENEFITS.
Retroactive SSI and AABD benefits are issued after the calendar month for which they are paid. Retroactive AABD, SSI and RSDI benefits are excluded from resources for six (6) calendar months after the month they are received. Interest earned by excluded funds is counted as income. (10-1-98)T

256. GERMAN REPARATIONS PAYMENTS.
German reparations payments are excluded from resources. Interest earned by German reparations payments is counted as income. (10-1-98)T

257. DISASTER ASSISTANCE.
Assistance received because of a major disaster, declared by the President, is excluded from resources. Interest earned on excluded funds is excluded from income and resources. (10-1-98)T

258. CASH TO PURCHASE MEDICAL OR SOCIAL SERVICES.
Cash paid by a recognized medical or social services program, for the participant to purchase medical or social services, is not a resource for one (1) calendar month after receipt. The cash must not be repayment for a bill already paid. (10-1-98)T

259. AGENT ORANGE SETTLEMENT PAYMENTS.
Agent Orange settlement payments are excluded from resources. Interest earned by unspent Agent Orange settlement payments is excluded from resources, but counts as income. (10-1-98)T

260. ALASKA NATIVE CLAIMS SETTLEMENT ACT.
Payments to Alaska Natives and their descendants from the Alaska Native Claims Settlement Act, under public Law 100-241, are excluded from resources. (10-1-98)T

261. STOCK IN ALASKA REGIONAL OR VILLAGE CORPORATIONS.
Stock held by Alaska natives in regional or village corporations is inalienable for a twenty (20) year period under Sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act. (10-1-98)T

262. VICTIMS' COMPENSATION PAYMENTS.
Payments, from a fund set up by a State to aid victims of crime, are excluded from resources for nine (9) months. Interest earned on unspent victims' compensation payments is counted for income and resources. (10-1-98)T

263. AUSTRIAN SOCIAL INSURANCE PAYMENTS.
Austrian General Social Insurance Act payments based, in whole or part, on wage credits granted under paragraphs 500 through 506 of the act, are excluded from resources. (10-1-98)T

264. RADIATION EXPOSURE COMPENSATION ACT PAYMENTS.
Payments made under the Radiation Exposure Compensation Act (P.L. 101-426) are excluded from resources. (10-1-98)T

265. TAX ADVANCES AND REFUNDS RELATED TO EARNED INCOME TAX CREDITS.
A Federal tax refund or payment made by an employer, related to Earned Income Tax Credits (EITC), is excluded from resources, for the month after the month the refund or payment is received. Interest earned on unspent tax refunds related to EITC is counted for income and resources. (10-1-98)T

266. IDENTIFYING EXCLUDED FUNDS COMMINGLED WITH FUNDS NOT EXCLUDED.
Excluded funds must be separately identifiable to remain excluded. (10-1-98)T

267. DEDICATED ACCOUNT FOR SSI PARTICIPANT.
A dedicated account for past-due SSI benefits, set up in a financial institution for an SSI participant under age eighteen (18) is an excluded resource. The account must be set up by the child's SSI representative payee, and excluded by SSA. (10-1-98)T

268. SUPPORT AND MAINTENANCE ASSISTANCE (HOME ENERGY ASSISTANCE).
Support and Maintenance Assistance (SMA) is in-kind support and maintenance, or cash paid for food, clothing, or shelter needs. It includes Home Energy Assistance. SMA Home Energy Assistance is aid to meet the costs of heating or cooling a home. SMA and Home Energy Assistance are excluded resources. (10-1-98)T

269. NETHERLANDS WUV PAYMENTS.
Payments from the Dutch government under the Netherlands Act on Benefits for Victims of Persecution 1940-1945 (WUV) are excluded resources. Interest earned on unspent WUV payments is not excluded. (10-1-98)T

270. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS.
Payments by the U.S. Government to Japanese-Americans or their spouse or parent (or if deceased to their survivors) interned or relocated during World War II are excluded resources. Payments by the U.S. Government to Aleuts interned or relocated during World War II are excluded resources. Payments by the Canadian government to Japanese-Canadians interned or relocated during World War II are excluded resources. (10-1-98)T

271. VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA.
VA monetary allowances to a child born with spina bifida, who is the child of a Vietnam veteran, are excluded resources. (10-1-98)T

272. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded from resources for Medicaid by Public Law 105-33. These payments are not excluded for AABD cash. (10-1-98)T

273. -- 285. RESERVED.

286. TRUSTS.
A trust is a resource to a participant with the legal right to revoke the trust, and use the principal for his own support and maintenance. See Sections 838 through 873 in these rules for treatment of trusts for Medicaid. (10-1-98)T

287. RETIREMENT FUNDS.
Retirement funds are annuities or work-related plans for providing income or pensions when employment ends. A retirement fund, owned by a participant, is a resource if he has the option of withdrawing a lump sum, even though he is not yet eligible for periodic retirement payments. If the participant is eligible for periodic retirement payments, the fund is not a countable resource. The value of a retirement fund is the amount of money a participant can currently withdraw from the fund. (10-1-98)T

288. INHERITANCE.
An inheritance is cash, a right, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. A contested inheritance is not counted as a resource until the contest is settled and money is distributed. (10-1-98)T

289. LIFE INSURANCE.
A life insurance policy is an excluded resource if its face value, plus the face value of all other life insurance policies the participant owns on the same insured person, totals one thousand five hundred dollars ($1,500) or less. If the face values exceed one thousand five hundred dollars ($1,500) the policies are a resource in the amount of the cash surrender value. (10-1-98)T

290. CONSERVATORSHIP.
Funds required to be made available for the care and maintenance of a participant, under a court order, are the participant's resource. This is true even if the participant or his agent is required to petition the court to withdraw funds for the participant's care. (10-1-98)T

291. CONDITIONAL BENEFITS.
A participant ineligible due solely to excess nonliquid resources, can receive AABD cash and related Medicaid. The participant must meet two (2) conditions. First, his countable liquid resources must not exceed three (3) times the participant's AABD cash budgeted needs. Second, the participant agrees, in writing, to sell excess nonliquid resources at their fair market value, within three (3) months. The value of excess real property is not counted as a resource, as long as the participant makes reasonable efforts to sell the property at its fair market value, and his reasonable efforts to sell are not successful. This exclusion is also used to compute deemed resources. (10-1-98)T

01. Conditional Benefits Payments Disposal/Exclusion Period. The disposal period and exclusion period for excess nonliquid resources begins on the date the participant signs the Agreement to Sell Property. The

disposal and exclusion periods can begin earlier for a participant who met all requirements to receive conditional benefits before his first opportunity to sign the Agreement to Sell Property. The participant must sign the Agreement to Sell Property before his application is approved. (10-1-98)T

02. Time Period for Disposal of Excess Resources. The disposal period for excess nonliquid personal property is three (3) months. One (1) three (3) month extension, for sale of personal property, is allowed when good cause exists. (10-1-98)T

03. Good Cause for Not Making Efforts to Sell Excess Property. The participant has good cause exists for not making efforts to sell property, when circumstances beyond his control prevent his taking the required actions. Without good cause, the participants's countable resources include the value of the excess property, retroactive to the beginning of the conditional benefits period. (10-1-98)T

292. -- 299. (RESERVED).

300. INCOME DEFINITION.

Income is anything that can be used to meet needs for food, clothing, or shelter. Income is cash, wages, pensions, in-kind payments, inheritances, gifts, awards, rent, dividends, interest, or royalties the participant receives during a month. (10-1-98)T

01. Cash Income. Cash income is currency, checks, money orders, or electronic funds transfers. Cash income includes Social Security checks, unemployment checks, and payroll checks. (10-1-98)T

02. In-Kind Income. In-kind income is not cash. In-kind income is food, clothing, or shelter. Wages paid as in-kind earnings, such as food, clothing or shelter, are counted as unearned income. Other in-kind income is not counted. (10-1-98)T

03. Inheritances. An inheritance is cash, a right, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. A contested inheritance is not counted as income until the contest is settled and money is distributed. (10-1-98)T

301. APPLICATION FOR POTENTIAL BENEFITS.

The participant must apply for benefits, including RSDI, VA, pensions, Workman's Compensation, or Unemployment Insurance, when there is potential eligibility. The participant must apply when he reaches the earliest age to qualify for the benefit. (10-1-98)T

01. SSI. To get AABD cash, the participant must apply for SSI benefits, if he is potentially eligible. To get AABD-Medicaid, the participant does not have to apply for SSI benefits. (10-1-98)T

02. VAIP. Participants entitled to a VA pension as of December 31, 1978 are not required to file for Veterans Administration Improved Pension Plan (VAIP), to get AABD cash or AABD-related Medicaid. (10-1-98)T

03. Other Benefits. EITC, TAFI, BIA General Assistance and victim's compensation benefits are exempt from the filing requirement. (10-1-98)T

302. RELATIONSHIP OF INCOME TO RESOURCES.

Income is counted as income in the current month. If the participant keeps countable income after the month received, it is counted as a resource. (10-1-98)T

303. WHEN INCOME IS COUNTED.

Income is counted the earliest of when received, when credited to a participant's account, or when set aside for the participant's use. Income from SSA, SSI or VA is counted for the month it is intended to cover. (10-1-98)T

304. PROSPECTIVE ELIGIBILITY.

Eligibility for AABD cash and Medicaid is prospective. Expected income for the month is compared to the participant's income limit that month. See Section 612 for patient liability income rules. (10-1-98)T

305. PROJECTING MONTHLY INCOME.
Income is projected for each month to determine AABD cash amount. Past income may be used to project future income. Expected changes must be considered. Income received less often than monthly is not prorated or converted. Patient liability income is not prorated or converted. (10-1-98)T

306. CRITERIA FOR PROJECTING MONTHLY INCOME.
Monthly income is projected as described in this Subsections 306.01 through 306.08. (10-1-98)T

01. Converting Income to a Monthly Amount. If a full month's income is expected, but is received on other than a monthly basis, convert the income to a monthly amount using one (1) of the formulas in Subsections 306.01.a. through 306.01.d. (10-1-98)T

TABLE 306.01 MONTHLY CONVERSION OF INCOME		
	CONVERSION	PROCEDURE
a.	Weekly to Monthly	Multiply weekly amounts by 4.3.
b.	Biweekly to Monthly	Multiplying bi-weekly amounts by 2.15.
c.	Semimonthly to Monthly	Multiplying semi-monthly amounts by 2.
d.	Exact Amount	Use the exact monthly income if it is expected for each month.

(10-1-98)T

02. Income Already Received. Count income already received during the month. Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received as described in Subsections 306.02.a. and 306.02.b. (10-1-98)T

a. Actual income. If the actual amount of income from any pay period a month is known, use the actual pay period amounts to determine the total month's income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (10-1-98)T

b. Projecting income. If no pay changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (10-1-98)T

03. Expected Income. Count income the participant and the Department believe the participant will get. Convert expected income to a monthly amount as described in Subsections 306.03.a. through 306.03.d. (10-1-98)T

a. Exact income unknown. If the exact income amount is uncertain or unknown, the uncertain or unknown portion must not be counted. The certain or known amount is counted. (10-1-98)T

b. Income not changed. If the income has not changed and no changes are expected, past income can be used to project future income. (10-1-98)T

c. Income changes. If income changes, and income received in the past thirty (30) days does not reflect expected income, income received over a longer period is used to project future income. (10-1-98)T

d. Seasonal income changes. If income changes seasonally, income from the last comparable season is used to project future income. (10-1-98)T

04. Ongoing Income. Ongoing income comes from an ongoing source. It was received in the past and is expected to be received in the future. Convert ongoing income to a monthly amount as described in Subsections 306.04.a. through 306.04.d. (10-1-98)T

a. Full month's income not expected from ongoing source. If a full month's income is not expected from an ongoing source, count the amount of income expected for the month. If actual income is known, use actual income. If actual income is unknown, project expected income. Convert income to a monthly amount. Use zero (0) income for any pay period in which income was not received that month. (10-1-98)T

b. Income from new source. If a full month's income from a new source is not expected, count the actual income expected for the month. Do not convert the income to a monthly amount. (10-1-98)T

c. Income stops. If income stops and no additional income is expected from the terminated source, count the actual income received during the month. Do not convert the terminated source of income. (10-1-98)T

d. Full month's income not expected from new or stopped source. If a full month's income is not expected from a new or terminated source, count the income expected for the month. If the actual income is known, use the known income. If the actual income is unknown, project the income. Do not convert the income to a monthly amount if a full month's income from a new or terminated source is not expected. (10-1-98)T

05. Income Paid on Salary. Income paid on salary, rather than an hourly wage, is counted at the expected monthly salary rate. (10-1-98)T

06. Income Paid at Hourly Rate. Compute expected income paid on an hourly basis by multiplying the hourly pay by the expected number of hours the participant will work in the pay period. Convert the pay period amount to a monthly basis. (10-1-98)T

07. Monthly Income Varies. When monthly income varies each pay period and the rate of pay remains the same, average the income from the past thirty (30) days to determine the average pay period amount. Convert the average pay period amount to a monthly amount. When income changes and income from the past thirty (30) days is not a valid indicator of future income, a longer period of income history is used to project income. (10-1-98)T

08. Income Received Less Often than Monthly. Recurring income, such as quarterly payments or annual income, is counted in the month received, even if the payment is for multiple months. The income is not prorated or converted. If the amount is known, use the actual. If the amount is unknown, use the best information available to project income. (10-1-98)T

307. -- 309. (RESERVED).

310. ADOPTION ASSISTANCE UNDER TITLE IV-B OR TITLE XX.
Adoption assistance payments, provided under Title IV-B or Title XX of the Social Security Act, are excluded. Adoption assistance payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (10-1-98)T

311. AGENT ORANGE SETTLEMENT FUND PAYMENTS.
Effective January 1, 1989, payments made from the Agent Orange settlement fund or awards from Agent Orange product liability judgement are excluded. (10-1-98)T

312. ALASKA NATIVE CLAIMS SETTLEMENT ACT.
Payments to Alaska Natives and their descendants from the Alaska Native Claims Settlement Act, under public Law 100-241, are excluded. (10-1-98)T

313. ASSISTANCE BASED ON NEED (ABON).
ABON is aid paid under a program using income as a factor of eligibility. ABON is funded wholly by a State, or a political subdivision of a State, or an Indian tribe, or a combination of these sources. Federal funds are not used. ABON is excluded. (10-1-98)T

314. AUSTRIAN SOCIAL INSURANCE PAYMENTS.
Austrian Social Insurance payments based on wage credits under Paragraphs 500-506 of the Austrian Social Insurance Act are excluded. (10-1-98)T

315. BUREAU OF INDIAN AFFAIRS (BIA) FOSTER CARE.
BIA foster care payments are social services. They are excluded for the foster child and foster family. (10-1-98)T

316. BLIND OR DISABLED STUDENT CHILD EARNED INCOME.
To qualify for this exclusion, the child must be blind or disabled. The child must be under age twenty-two (22). The child must not be married or the head of a household. The child must be a student regularly attending high school, college, university or course of vocational or technical training, designed to prepare him for gainful employment. Up to four hundred ($400) per month of earned income, is excluded. The maximum exclusion is one thousand six hundred twenty dollars ($1,620) in a calendar year. (10-1-98)T

317. "BUY-IN" REIMBURSEMENT.
The SSA reimbursement for self-paid Medicare Part B "Buy-In" premiums is excluded. (10-1-98)T

318. COMMODITIES, FOOD STAMPS AND FOOD PROGRAMS.
Food, under the Federal Food Stamp Program, Donated Commodities Program, School Lunch Program, and Child Nutrition Program, is excluded. This includes free or reduced price food for women and children under the National School Lunch Act and the Child Nutrition Act of 1966. (10-1-98)T

319. CONTRIBUTIONS FOR ADULT RESIDENTIAL CARE FACILITY RESIDENTS.
Contributions from a third party, for a participant residing in an adult residential care facility, are excluded. The contribution must be paid directly to the facility. The contribution must pay for items or services, other than medical care, provided to the participant by the facility. The items or services must not be included in the participant's AABD cash, or must be charges for care exceeding the Department's Adult Residential Care Facility Level I, II or III Allowance. The participant must not be charged a higher rate than other residents of the facility. The person making the contribution must provide a signed statement identifying the item or service the payment covers, the reason the item or service is needed by the participant, and the monthly amount of the payment. (10-1-98)T

320. CONVERSION OR SALE OF A RESOURCE NOT INCOME.
Payment from the sale, exchange, or replacement of a resource is excluded. The payment is a resource that changed form. (10-1-98)T

321. CREDIT LIFE OR DISABILITY INSURANCE PAYMENTS.
Credit life or credit disability insurance covers payments on loans and mortgages, in case of death or disability. Insurance payments are made directly to loan or mortgage companies, and are not available to the participant. These payments are excluded. (10-1-98)T

322. DEPARTMENT OF EDUCATION SCHOLARSHIPS.
Any grant, scholarship, or loan, to an undergraduate for educational purposes, made or insured under any program administered by the Commissioner of Education, is excluded. (10-1-98)T

323. GIFTS OF DOMESTIC TRAVEL TICKETS.
A ticket for domestic travel received as a gift by a participant or spouse is excluded. (10-1-98)T

324. GRANTS, SCHOLARSHIPS, AND FELLOWSHIPS.
Any grant, scholarship, or fellowship, not administered by the Commissioner of Education, and used for paying tuition, fees, or required educational expenses is excluded. This exclusion does not apply to any portion set aside or actually used for food, clothing, or shelter. (10-1-98)T

325. DISASTER ASSISTANCE.
Payments received because of a major disaster, declared by the President, are excluded. This includes payments to repair or replace the person's own home or other property, and disaster unemployment aid. (10-1-98)T

326. DOMESTIC VOLUNTEER SERVICE ACT PAYMENTS.
Compensation, other than wages, provided to volunteers in the Foster Grandparents Program, RSVP, and similar National Senior Volunteer Corps programs under Sections 404(g) and 418 of the Domestic Volunteer Service Act is excluded. (10-1-98)T

327. EARNED INCOME TAX CREDITS.
Earned Income Tax Credits advance payments and refunds are excluded. (10-1-98)T

328. FEDERAL HOUSING ASSISTANCE.
Federal housing assistance listed in Subsections 328.01 through 328.05 is excluded. (10-1-98)T

01. United States Housing Act of 1937. United States Housing Act of 1937, Section 1437 et seq. of 42 U.S. Code. (10-1-98)T

02. The National Housing Act. The National Housing Act, Section 1701 et seq. of 12 U.S. Code. (10-1-98)T

03. Housing and Urban Development Act of 1965. Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of 12 U.S. Code, and Section 1451 of 42 U.S. Code. (10-1-98)T

04. Housing Act of 1949. Title V of the Housing Act of 1949, Section 1471 et seq. of 42 U.S. Code. (10-1-98)T

05. Housing Act of 1959. Section 202(h) of the Housing Act of 1959. (10-1-98)T

329. FOSTER CARE PAYMENTS.
Foster care payments using funds provided under Title IV-B or Title XX of the Social Security Act are excluded. Payments for foster care of a non SSI-child placed by a public or private non-profit child placement or child care agency are excluded. Foster care payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (10-1-98)T

330. EXPENSE OF OBTAINING INCOME.
Essential expenses of obtaining unearned income are subtracted from the income. An expense is essential if the participant would not receive the income unless he paid the expense. Expenses of receiving income, such as withheld taxes, are not subtracted. (10-1-98)T

331. GARNISHMENTS.
Garnishments of unearned income are counted as unearned income. Garnishments of earned income are counted as earned income. (10-1-98)T

332. GERMAN REPARATIONS.
Reparations payments from the Federal Republic of Germany received on or after November 1, 1984 are excluded. (10-1-98)T

333. GOVERNMENT MEDICAL OR SOCIAL SERVICES.
Governmental payments authorized by Federal, State, or local law, for medical or social services, are excluded. Any cash provided by a nongovernmental medical or social services organization (including medical and liability insurers) for medical or social services already received is excluded. Emergency Assistance (EA) medical and social services payments, issued by the Division of Family and Childrens Services, are excluded. (10-1-98)T

01. Medical Services. Medical services are diagnostic, preventive, therapeutic, or palliative treatment. Treatment must be performed, directed, or supervised by a State licensed health professional. Medical services include room and board provided during a medical confinement. Medical services include in-kind medical items such as prescription drugs, eye glasses, prosthetics, and their maintenance. In-kind medical items include devices intended to bring the physical abilities of a handicapped person to a par with an unaided person who is not handicapped. Electric wheelchairs, modified scooters, and seeing eye dogs and their dog food are in-kind medical items. (10-1-98)T

02. Social Service. A social service is any service, other than medical. A social service helps a handicapped or socially disadvantaged person to function in society on a level comparable to a person not handicapped or disadvantaged. Housebound and Aid and Attendance Allowances, including Unusual Medical

Expense Allowances, received from the Veterans Administration are excluded. (10-1-98)T

334. HOME ENERGY ASSISTANCE (HEA) AND SUPPORT AND MAINTENANCE ASSISTANCE (SMA).
SMA is in-kind support and maintenance, or cash paid for food, clothing, or shelter needs. SMA includes HEA. HEA is aid to meet the costs of heating or cooling a home. SMA must be provided in-kind by a nonprofit organization. HEA must be provided in cash or in-kind by suppliers of home heating gas or oil or a municipal utility providing home energy. SMA and HEA are excluded. (10-1-98)T

335. HOME PRODUCE FOR PERSONAL USE.
Home produce is excluded if it is consumed by the participant or his household. Home produce includes livestock grown for personal consumption. (10-1-98)T

336. IN-HOME SUPPORTIVE SERVICES.
Payments made by Title XX or other governmental programs to pay an ineligible spouse or ineligible parent for in-home supportive services provided to a participant are excluded. In-home supportive services include attendant care, chore services and homemaker services. (10-1-98)T

337. INCOME EXCLUDED BY LAW.
Any income excluded by Federal statute, is excluded. (10-1-98)T

338. INFREQUENT OR IRREGULAR INCOME.
Infrequent or irregular income, under ten dollars ($10) per month earned income and twenty dollars ($20) per month unearned income, is excluded. If the infrequent or irregular income exceeds these limits the total amount received is counted. Income is infrequent if the participant gets it once in a calendar quarter from a single source. Income is irregular if the participant could not reasonably expect to receive it. (10-1-98)T

339. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS.
U.S. Government payments to Japanese-Americans, interned or relocated during World War II, are excluded. Payments to their spouses or parents (or if deceased to their survivors) are also excluded. U.S. Government payments to Aleuts interned or relocated during World War II are excluded. (10-1-98)T

340. LOANS.
Loans are excluded, if the participant has signed a written repayment agreement. The signed agreement must state how the loan will be repaid. The signed written agreement can be obtained after the loan is received. Items bought on credit are paid with a loan and are not income. Money repaid to a participant on the principal of a loan is not income, it is a resource. Interest received by a participant on money loaned by him is countable income. (10-1-98)T

341. MANPOWER DEVELOPMENT AND TRAINING ACT PAYMENTS.
Payments made under the Manpower Development and Training Act of 1962, as amended by the Manpower Act of 1965 are excluded. (10-1-98)T

342. NATIVE AMERICAN PAYMENTS.
Payments authorized by law made to people of Native American ancestry are excluded. (10-1-98)T

343. NETHERLANDS WUV PAYMENTS.
Payments from the Dutch government under the Netherlands Act on Benefits for Victims of Persecution 1940-1945 (WUV) are excluded. (10-1-98)T

344. NUTRITION PROGRAMS FOR OLDER AMERICANS.
Payments, other than a wage or salary, made under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, are excluded. (10-1-98)T

345. PERSONAL SERVICES.
A personal service performed for a participant is excluded. Personal services include lawn mowing, house cleaning, grocery shopping, and baby sitting. (10-1-98)T

346. RADIATION EXPOSURE COMPENSATION ACT PAYMENTS.
Payments made to persons under the Radiation Exposure Compensation Act are excluded. (10-1-98)T

347. REBATES, REFUNDS, AABD UNDERPAYMENTS AND REPLACEMENT CHECKS.
Rebates, refunds, AABD underpayments and returns of money already paid are excluded. A replacement check is excluded. (10-1-98)T

348. RELOCATION ASSISTANCE.
Relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, Subchapter II, Chapter 61, Title 42 of the U.S. Code are excluded. Relocation payments, paid to civilians of World War II per Public Law 100-383, are excluded. (10-1-98)T

349. REPLACEMENT OF INCOME ALREADY RECEIVED.
Replacement of a participant's lost, stolen, or destroyed income is excluded. (10-1-98)T

350. RETURN OF MISTAKEN PAYMENTS.
A returned mistaken payment is excluded. If the participant keeps the mistaken payment, it is income. (10-1-98)T

351. TAX REFUNDS.
Refunds of Federal, State or local taxes paid on income, real property, or food bought by the participant and his family, are excluded. (10-1-98)T

352. UTILITY PAYMENTS.
Payments for utility costs made to low-income housing tenants by a local housing authority are excluded when paid directly to the tenant or jointly to the tenant and the utility company. (10-1-98)T

353. VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA.
VA monetary allowances to a child born with spina bifida, who is the child of a Vietnam veteran, are excluded. (10-1-98)T

354. VICTIMS' COMPENSATION PAYMENTS.
Any payment made from a State-sponsored fund to aid victims of crime is excluded. (10-1-98)T

355. VOCATIONAL REHABILITATION SERVICES PAYMENTS.
Payments other than wages made to an eligible handicapped individual employed in a Vocational Rehabilitation Services project under Title VI of the Rehabilitation Act of 1973 are excluded. (10-1-98)T

356. VOLUNTEER SERVICES INCOME.
Payments to volunteers under Chapter 66 of Title 42 of the U.S. Code Domestic Volunteer Services (ACTION programs) are excluded. Payments are not excluded, if the Director of the ACTION agency determines the value, adjusted for hours served, is equal to or greater than the Federal or State minimum wage. (10-1-98)T

357. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded for Medicaid but not for AABD cash. (10-1-98)T

358. WEATHERIZATION ASSISTANCE.
Weatherization assistance is excluded. (10-1-98)T

359. -- 399. (RESERVED).

400. EARNED INCOME.
Earned income remaining after disregards and exclusions are subtracted is counted in computing AABD cash. Wages are counted the month they become available to the participant. (10-1-98)T

401. COMPUTING SELF-EMPLOYMENT INCOME.
Countable self-employment income is the difference between the gross receipts and the allowable costs of producing

the income, if the amount is expected to continue. Self-employment income is computed using one (1) of the methods listed in Subsections 401.01 through 401.03. (10-1-98)T

01. Self-Employed At Least One (1) Year. For individuals who are self-employed for at least one (1) year, income and expenses are averaged over the past twelve (12) months. (10-1-98)T

02. Self-Employed Less than One (1) Year. For individuals who are self-employed for less than one (1) year, income and expenses are averaged over the months the business has been in operation. (10-1-98)T

03. Monthly Increase or Decrease. If a monthly average does not reflect actual monthly income, because of an increase or decrease in business, the self-employment income is counted monthly. This method is not used for businesses with seasonal or unusual income peaks at certain times of the year. (10-1-98)T

04. Net Self-Employment Income Seven and Sixty-Five Hundredths Percent (7.65%) Deduction. If net self-employment income is over four hundred dollars ($400) per year, seven and sixty-five hundredths percent (7.65%) is deducted. This deduction compensates for Social Security taxes paid. If self-employment Social Security tax is not paid, this deduction is not allowed. (10-1-98)T

402. SELF-EMPLOYMENT ALLOWABLE EXPENSES.
Operating expenses subtracted from self-employment income are listed in Subsections 402.01 through 402.16. (10-1-98)T

01. Labor. Labor paid to individuals not in the family. (10-1-98)T

02. Materials. Materials such as stock, seed and fertilizer. (10-1-98)T

03. Rent. Rent on business property. (10-1-98)T

04. Interest. Interest paid to purchase income producing property. (10-1-98)T

05. Insurance. Insurance paid for business property. (10-1-98)T

06. Taxes. Taxes on income producing property. (10-1-98)T

07. Business Transportation. Business transportation as defined by the IRS. (10-1-98)T

08. Maintenance. Landscape and grounds maintenance. (10-1-98)T

09. Lodging. Lodging for business related travel. (10-1-98)T

10. Meals. Meals for business related travel. (10-1-98)T

11. Use of Home. Costs of partial use of home for business. (10-1-98)T

12. Legal. Business related legal fees. (10-1-98)T

13. Shipping. Business related shipping costs. (10-1-98)T

14. Uniforms. Business related uniforms. (10-1-98)T

15. Utilities. Utilities for business property. (10-1-98)T

16. Advertising. Business related advertising. (10-1-98)T

403. SELF-EMPLOYMENT EXPENSES NOT ALLOWED.
Self-employment expenses not allowed are listed in Subsections 403.01 through 403.09. (10-1-98)T

01. Payments on the Principal of Real Estate. Payments on the principal of real estate mortgages on income-producing property. (10-1-98)T

02. Purchase of Capital Assets or Durable Goods. Purchases of capital assets, equipment, machinery, and other durable goods. Payments on the principal of loans for these items. (10-1-98)T

03. Taxes. Federal, state, and local income taxes. (10-1-98)T

04. Savings. Monies set aside for future use such as retirement or work related expenses. (10-1-98)T

05. Depreciation. Depreciation for equipment, machinery, or other capital investments. (10-1-98)T

06. Labor Paid to Family Member. Labor paid to any family member. (10-1-98)T

07. Loss of Farm Income. Loss of farm income subtracted from other income. (10-1-98)T

08. Personal Transportation. Personal transportation. (10-1-98)T

09. Net Losses. Net losses from previous periods. (10-1-98)T

404. ROYALTIES.
Royalties received as part of a trade or business, or for publication of the participant's work are earned income. Other royalties are unearned income. (10-1-98)T

405. HONORARIA.
An honorarium for services rendered is earned income. An honorarium for travel expenses and lodging for a guest speaker is unearned income in the amount it exceeds the expenses. The portion that equals the expenses is excluded as an expense of obtaining the income. (10-1-98)T

406. SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER PAYMENTS.
Payments for services performed in a sheltered workshop or work activities center are earned income. (10-1-98)T

407. JOB TRAINING PARTNERSHIP ACT (JTPA).
JTPA payments are earned income. JTPA payments for child care, transportation, medical care, meals, and other reasonable expenses, provided in cash or in-kind, are not income. (10-1-98)T

408. PROGRAMS FOR OLDER AMERICANS.
Wages or salary paid under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, is earned income. (10-1-98)T

409. UNIFORMED SERVICES PAY AND ALLOWANCES.
Basic pay is earned income. All other pay and allowances are unearned income. (10-1-98)T

410. RENTAL INCOME.
Net rental income is unearned income, unless from the business of renting real property. Net unearned rental income is gross rent less the expenses on the rental property listed in Subsections 410.01 through 410.06. Net rental income from the business of renting properties is self-employment earned income. (10-1-98)T

01. Interest. Interest and escrow portions of a mortgage payment. (10-1-98)T

02. Insurance. Real estate insurance. (10-1-98)T

03. Repairs. Minor repairs to an existing rental structure. (10-1-98)T

04. Taxes. Property taxes. (10-1-98)T

05. Yard Care. Lawn care, including tree and shrub care and snow removal. (10-1-98)T

06. Advertising. Advertising costs for tenants. (10-1-98)T

411. OVERPAYMENT WITHHOLDING OF UNEARNED INCOME.
Money withheld by any benefit program to recover an overpayment is counted as income. Money withheld is not income if the overpaid benefit amount was used to compute AABD cash. (10-1-98)T

412. RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI).
RSDI monthly benefits are unearned income. (10-1-98)T

413. SSI PAYMENTS.
SSI monthly payments are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. An advance SSI payment, to an applicant appearing SSI eligible with a financial emergency, is not income the month received. When SSA reduces ongoing SSI to recover the advance, the SSI payment before the reduction continues to be counted as income. (10-1-98)T

414. BLACK LUNG BENEFITS.
Black Lung payments are unearned income. (10-1-98)T

415. RAILROAD RETIREMENT PAYMENTS.
Railroad Retirement Board payments are unearned income. (10-1-98)T

416. UNEMPLOYMENT INSURANCE BENEFITS.
Unemployment insurance benefits received under State and Federal unemployment laws are unearned income. (10-1-98)T

417. UNIFORM GIFTS TO MINORS ACT (UGMA).
UGMA payments from the custodian to the minor are income to the minor. UGMA property, including earnings or additions, are not income to the minor until the month the minor becomes eighteen (18) years of age. (10-1-98)T

418. WORKERS' COMPENSATION.
Workers' compensation, less expenses required to get the payment, is unearned income. (10-1-98)T

419. MILITARY PENSIONS.
Military pensions are unearned income. (10-1-98)T

420. VA PENSION PAYMENTS.
VA pension payments are unearned income. The twenty dollar ($20) standard disregard is not subtracted, except by a special act of Congress. (10-1-98)T

421. VA COMPENSATION PAYMENTS.
VA compensation payments to a veteran, spouse, child, or widow(er) are unearned income. (10-1-98)T

422. VA EDUCATIONAL BENEFITS.
VA educational payments funded by the government, but not part of vocational rehabilitation, are unearned income. (10-1-98)T

423. ALIMONY, SPOUSAL, AND ADULT SUPPORT.
Alimony, spousal, and other adult support payments are unearned income. (10-1-98)T

424. CHILD SUPPORT PAYMENTS.
Child support payments are unearned income. One-third (1/3) of a child support payment is excluded for the child receiving support. Child support collected by a State and retained for TAFI payments is not income. (10-1-98)T

425. DIVIDENDS AND INTEREST.
Dividends and interest are unearned income. (10-1-98)T

426. AWARDS.
Awards are unearned income. (10-1-98)T

427. GIFTS.
Gifts are unearned income. (10-1-98)T

428. PRIZES.
Prizes are unearned income. (10-1-98)T

429. WORK-RELATED UNEARNED INCOME.
Work-related payments that are not salary or wages are unearned income. (10-1-98)T

430. COMMUNITY SERVICE BLOCK GRANTS.
Community service block grant distributions are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (10-1-98)T

431. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAMS.
FEMA funds are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (10-1-98)T

432. BUREAU OF INDIAN AFFAIRS GENERAL ASSISTANCE (BIA GA).
BIA GA payments are unearned income. BIA GA payments are Federally-funded income based on need. They are paid in cash or in-kind. The twenty dollar ($20) standard disregard is not subtracted. (10-1-98)T

433. BIA ADULT CUSTODIAL CARE (ACC) AND CHILD WELFARE ASSISTANCE (CWA) PAYMENTS.
BIA ACC and CWA payments, other than foster care, made to participants out of an institution, are unearned income. (10-1-98)T

434. INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS.
Deposits to an unrestricted IIM account are income in the month deposited. (10-1-98)T

435. ACCELERATED LIFE INSURANCE INCOME.
Accelerated life insurance payments are unearned income in the month received. (10-1-98)T

436. REAL ESTATE CONTRACT INCOME.
Payments received on the interest of a negotiable real estate contract are unearned income. Payments received on the principal of a negotiable real estate contract are a resource. Payments received on a nonnegotiable real estate contract are unearned income. Payments received on an excluded real estate contract of a long-term care participant are unearned income. (10-1-98)T

437. -- 450. (RESERVED).

451. DEEMING INCOME.
Income deeming counts the income of another person as available to an AABD participant, for eligibility and the amount of AABD cash. Income is deemed to the participant from his ineligible spouse. Income is deemed to the child participant from his ineligible parent. Income deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (10-1-98)T

01. Ineligible Parent. A natural or adoptive father or mother, or a stepparent, who does not receive AABD and lives in the same household as a child. (10-1-98)T

02. Ineligible Spouse. A participant's husband or wife, living with the participant, not receiving AABD is an ineligible spouse. The ineligible husband or wife, of the parent of a child participant, living with the child participant and his parent, is an ineligible spouse. (10-1-98)T

03. Ineligible Child. A child under age twenty-one (21) who does not receive AABD, and lives with the AABD participant. (10-1-98)T

04. Income Deeming Exclusions. Income excluded from deeming is listed in Table 451.04.

TABLE 451.04 - INCOME DEEMING EXCLUSIONS			
Type of Income	**Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen**	**Essential Person**	**Sponsor of Legal Non-citizen**
Income excluded by Federal laws other than the Social Security Act.	Excluded	Excluded	Excluded
Public Income Maintenance Payments (PIM). Public income maintenance payments include TAFI, AABD, SSI, refugee cash assistance, BIA-GA, VA payments based on need, local, county and state payments based on need, and payments under the 1974 Disaster Relief Act.	Excluded	Not Excluded	Not Excluded
Income used by a PIM program for amount of payment to someone other than an SSI recipient.	Excluded	Not Excluded	Not Excluded
Grants, scholarships, fellowships.	Excluded	Not Excluded (unless excluded by Federal laws)	Not Excluded (unless excluded by Federal laws)
Foster care payments.	Excluded	Not Excluded	Not Excluded
Food Stamps and Dept. of Agriculture donated foods.	Excluded	Not Excluded	Not Excluded
Home grown produce.	Excluded	Not Excluded	Not Excluded
Tax refunds on real property or food.	Excluded	Not Excluded	Not Excluded
Income used in an approved plan for achieving self support (PASS).	Excluded	Not Excluded	Not Excluded
Income used to pay court ordered or Title IV-D support payments.	Excluded	Not Excluded	Not Excluded
Payments based to Alaskans based on age and residence.	Excluded (not applicable to children)	Not Excluded	Not Excluded
Disaster Assistance.	Excluded	Excluded	Excluded
Infrequent or irregular income.	Excluded	Not Excluded	Not Excluded
Blind Work Expenses (BWE).	Excluded	Not Excluded	Not Excluded
Payments to provide in-home support.	Excluded	Not Excluded	Not Excluded
Home energy assistance and support and maintenance assistance.	Excluded	Excluded	Excluded

TABLE 451.04 - INCOME DEEMING EXCLUSIONS			
Type of Income	**Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen**	**Essential Person**	**Sponsor of Legal Non-citizen**
Child's earned income, up to four hundred dollars ($400) per month and one thousand six hundred and twenty dollars ($1,620) per year.	Excluded (not applicable to spouses or parents)	Does Not Apply	Does Not Apply
Impairment-related work expenses (IRWE).	Excluded	Not Excluded	Not Excluded
Interest on burial funds, appreciation in the value of burial space purchase agreements excluded from resources and interest on the value of burial space purchase agreements.	Excluded	Not Excluded	Not Excluded

(10-1-98)T

452. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT.
Income is deemed from an ineligible spouse to the participant, if they live together. Income is deemed as described in Subsections 452.01 through 452.08.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
	STEP	**PROCEDURE**
01.	Compute Child's Living Allowance.	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining.
02.	Adjust Spouse Income with Child's Living Allowance	Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible spouse's gross unearned income, then from gross earned income.
03.	Add Adjusted Earned and Unearned Incomes	Add adjusted earned and unearned income. This is the deemed income of the ineligible spouse.
04.	Compute Participant's Needs as a Single Person	Compute the participant's budgeted AABD needs as if he was a single person, living alone.
05.	Deemed Income Equal to or Less Than One-Half of Participant's Needs	If the deemed income is equal to, or less than, one-half of the participant's budgeted needs, computed as if he was a single person living alone, no income is deemed from the ineligible spouse.
06.	Deemed Income More Than One-Half Participant's Needs	If the deemed income is more than one-half of the participant's budgeted needs, computed as if he was a single person living alone, continue the deeming process.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
	STEP	**PROCEDURE**
07.	Compute Participant's Income	Add the remaining earned and unearned ineligible spouse deemed income (after the ineligible child deduction) to the gross earned and unearned incomes of the participant and ineligible spouse. This is the total earned and unearned income. Subtract the standard disregard of twenty dollars ($20) from the total unearned income. If the total unearned income is less than twenty dollars ($20), subtract the remainder from the total earned income. Subtract the earned income disregard of sixty-five dollars ($65) from the earned income. Subtract one-half of the remaining earned income. Combine the remaining unearned income and the remaining earned income to compute the participant's total countable income. Determine the couple's budgeted needs as if they were an eligible couple. If the participant's countable income, including deemed income, is more than the couple's budgeted needs, the participant is ineligible. If the participant's countable income, including deemed income, is less than the couple's budgeted needs compute the participant's AABD cash.
08.	Determine AABD Cash	Subtract the participant's countable and deemed incomes from the couple's budgeted needs, to compute the budget deficit. Compute a second budget deficit, using the participant's income, and the single person budgeted needs. AABD cash is the smaller of the two (2) budget deficits.

(10-1-98)T

453. DEEMING INCOME FROM INELIGIBLE PARENT TO AABD CHILD.
Income is deemed from an ineligible parent, or his ineligible spouse, to a child participant under age eighteen (18) living in the same household. A stepparent's income is deemed to the child for AABD cash, but not Medicaid. The income is deemed as described in Subsections 453.01 through 453.11.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
	STEP	**PROCEDURE**
01.	Compute Child's Living Allowance	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining. Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible parents unearned income. If any living allowance remains subtract it from the parent’s earned income.
02.	Remaining Parental Income	The parent may have remaining income. Go to Subsection 453.03.
03.	Subtract Income Disregard	Subtract the standard twenty dollar ($20) disregard from the parent's unearned income. If unearned income is less than twenty dollars ($20) subtract the balance of the twenty dollars ($20) from the parent's earned income.
04.	Subtract Earned Income Disregard	Subtract the sixty-five dollar ($65) earned income disregard from the parent's earned income. Subtract one-half of the remaining balance of the parent's earned income.
05.	Combine Income	Combine any remaining parental earned income with any remaining parental unearned income.
06.	Compute Living Allowance for Parent	Compute a living allowance for the ineligible parent. For one (1) parent, the living allowance is the basic allowance for a person living alone. For two (2) parents, the living allowance is the basic allowance for a couple. A parent receiving public income maintenance payments does not get a living allowance.
07.	Subtract Living Allowance	Subtract the parent living allowance from the remaining balance of the parent's income. This is the deemed parental income.
08.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.
09.	Subtract Disregard	Subtract the standard twenty dollar ($20) disregard from each child participant's unearned income, including deemed income. If a child's total unearned income is less than twenty dollars ($20), subtract the balance of the standard disregard from the child's earned income.
10.	Subtract Disregard	Subtract the sixty-five dollar ($65) earned income disregard and one-half of the balance from each child's own earned income.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
	STEP	**PROCEDURE**
11.	Combine Income	Combine each child's unearned income with his earned income. If the child's remaining countable income is less than his actual budgeted needs, the child has a budget deficit. If the child is otherwise eligible, his AABD cash is the budget deficit.

(10-1-98)T

454. DEEMING INCOME FROM ESSENTIAL PERSON TO PARTICIPANT.
If a participant and an essential person live in the same household, the essential person's income is deemed to the participant. If essential person deeming makes the participant ineligible, do not use essential person deeming. The income is deemed as described in Subsections 454.01 through 454.06.

TABLE 454 - DEEMING FROM ESSENTIAL PERSON TO PARTICIPANTS		
	STEP	**PROCEDURE**
01.	Compute Income	Compute the total earned and unearned income of the essential person. Subtract income exclusions.
02.	Subtract Disregard	Subtract income exclusions and disregards from the participant's income.
03.	Add Unearned Income	Add the income from Subsection 454.01 to the participant's unearned income.
04.	Add Earned Income	Add the participant’s remaining earned income from Subsection 454.02 to the income in Subsection 454.03. This is the participant's countable income.
05.	Compute Needs	Compute the participant's budgeted needs, as though the participant and the essential person were an AABD couple.
06.	Subtract Income	Subtract participant's income in Subsection 454.04 from his budgeted needs. The difference is the participant's AABD cash.

(10-1-98)T

455. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT.
If a participant, his ineligible spouse and their child participant live in the same household, income is deemed from the participant to the child participant. The income is deemed as described in Subsections 455.01 through 455.03.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
	STEP	**PROCEDURE**
01.	Compute AABD cash	Use the procedures in Table 455, to determine if the participant is eligible for AABD cash. If the participant is eligible, no income is deemed to the child participant.
02.	Participant Not Eligible	If the participant has too much income, including deemed income, to be eligible for AABD cash, all income over the amount needed to reduce the participant's AABD cash to zero is deemed to the child participant.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
	STEP	**PROCEDURE**
03.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

(10-1-98)T

456. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN PARTICIPANT - NO I-864 AFFIDAVIT OF SUPPORT.

Deem income as described in this Section, if the legal non-citizen's sponsor signed an affidavit of support other than the I-864. The deemed income is counted, even if the participant does not live in the sponsor's household. The sponsor's income is not deemed to the participant for Medicaid. (10-1-98)T

01. Three (3) Year Limit. Effective October 1, 1996 the deeming period, regardless of admission date, is three (3) years after the date the legal non-citizen is lawfully admitted. Deeming stops the end of the month, three (3) years from the date the sponsored participant lawfully entered the U.S. for permanent residence. (10-1-98)T

02. Sponsored Legal Non-Citizen Exempt From Deeming. A lawfully admitted legal non-citizen participant is exempt from sponsor deeming if one (1) or more of the conditions in Subsections 456.02.a. through 456.02.m. applies. (10-1-98)T

a. Refugee. The legal non-citizen was admitted to the U.S. as a refugee, asylee, or parolee. (10-1-98)T

b. Applied before October 1, 1980. The legal non-citizen first applied for AABD before October 1, 1980. (10-1-98)T

c. Permanent resident. The legal non-citizen is a permanent resident under color of law. (10-1-98)T

d. Sponsored with job. The legal non-citizen's entry into the U.S. was sponsored by a church, other social service organization, or an employer who has offered him a job. (10-1-98)T

e. Blind or disabled. The legal non-citizen becomes blind or disabled after he is admitted to the U.S. (10-1-98)T

f. Legal non-citizen lives with spouse. The legal non-citizen was sponsored by and resides in the same household with his ineligible spouse or ineligible parent. Use ineligible spouse and ineligible parent deeming, not sponsor deeming. (10-1-98)T

g. Sponsor dies. The legal non-citizen's sponsor dies. (10-1-98)T

h. Legalized legal non-citizen. The legal non-citizen was legalized under the Immigration Reform and Control Act of 1986. (10-1-98)T

i. Resided for thirty-six (36) months. The legal non-citizen has lived in the U.S. for thirty-six (36) months beginning with the month he was admitted for permanent residence or granted permanent residence status. (10-1-98)T

j. Registry legal non-citizen. The legal non-citizen was admitted under section 249 of the INA as a

registry legal non-citizen. (10-1-98)T

k. Amerasian legal non-citizen. The legal non-citizen is an applicant for permanent residence who is an Amerasian or a specified relative of an Amerasian. The Amerasian must be born in Vietnam between January 1, 1962 and January 1, 1976. A specified relative is a spouse, child, parent or stepparent of the Amerasian, or someone who has acted in the place of a parent of an Amerasian and/or his spouse or child. (10-1-98)T

l. Cuban/Haitian. The legal non-citizen is an applicant for adjustment under the Cuban/Haitian provisions of Section 202 of the Immigration Reform and Control Act of 1986. (10-1-98)T

03. Sponsor/Legal Non-Citizen Relationships. Sponsor/legal non-citizen relationships and deeming rules are listed in Subsections 456.03.a. through 456.03.f.

TABLE 456.03 - SPONSOR/LEGAL NON-CITIZEN RELATIONSHIPS AND DEEMING		
	STEP	**PROCEDURE**
a.	Sponsor is Spouse	If the legal non-citizen's sponsor is his ineligible spouse, and the couple does not live together, sponsor to legal non-citizen deeming is used.
b.	Legal Non-Citizen is Child	If the legal non-citizen is a child, and does not live with his sponsor parent(s), sponsor to legal non-citizen deeming is used.
c.	Child With Ineligible Parent	If the participant is a child whose ineligible parent(s) and sponsor both have income available for deeming to him, the income of the ineligible parent(s) is deemed as in Section 376.
d.	Child Eligible After Parent Deeming	If the child remains eligible after income is deemed from his ineligible parent(s), the sponsor's income is deemed to him under the sponsor to legal non-citizen deeming procedures.
e.	Participant Couple With Sponsors	If each member of a participant couple has his own sponsor, separate deeming computations are used. The couple's countable income includes the combined deemed incomes.
f.	Member of Couple Not Eligible	If one (1) member of a couple with separate sponsors is not eligible, the ineligible spouse's income is deemed to the participant as in Section 379. This is in addition to income deemed from the sponsor.

(10-1-98)T

04. Sponsor to Legal Non-Citizen Deeming Procedures. Budget the legal non-citizen's actual needs, as if he is a single person living alone. Subtract the legal non-citizen's own income, less exclusions and disregards. Subtract the couple's income, less exclusions, from their needs. If there is no budget deficit, the participant is not eligible. If there is a budget deficit, follow the procedures in Subsections 456.04.a. through 456.04.d. to compute sponsor deemed income.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES		
	STEP	**PROCEDURE**
a.	Compute Income	Compute the gross monthly earned and unearned income of the sponsor, and the sponsor's spouse, if living with him.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES		
	STEP	PROCEDURE
b.	Subtract Living Allowance	Subtract a living allowance for the sponsor the sponsor's spouse, if living with him. The sponsor's living allowance is the basic allowance for a single person living alone. The living allowance for the sponsor's spouse is one-half the basic allowance for a single person living alone. Round up cents to the next dollar.
c.	Subtract Dependent Living Allowance	Subtract a living allowance for each dependent claimed by the sponsor on his most recent Federal tax return. Do not subtract an allowance for the sponsor's spouse in this step. The living allowance is one-half the basic allowance for a single person living alone. Round up cents to the next dollar. Do not reduce the living allowance by the dependent's income.
d.	Deem Income	Income remaining is deemed to the participant from the sponsor.

(10-1-98)T

457. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN - SPONSOR SIGNED I-864 AFFIDAVIT OF SUPPORT.
If the legal non-citizen's sponsor has signed an I-864 affidavit of support, all income of the sponsor and the sponsor's spouse is deemed to the legal non-citizen for AABD cash and Medicaid eligibility. Deeming continues until the legal non-citizen becomes a naturalized citizen or has forty (40) quarters of work. (10-1-98)T

458. -- 499. (RESERVED).

500. FINANCIAL NEED AND AABD CASH AMOUNT.
The participant must have financial need. The participant has financial need if his allowances are more than his income. If the participant is eligible, his AABD cash payment is the difference between his financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. AABD cash is paid electronically as set forth in IDAPA 16.03.20, "Rules Governing Electronic Benefits Transfer (EBT) of Public Assistance and Food Stamps". (10-1-98)T

501. BASIC ALLOWANCE.
The basic allowance for a participant, not living in a nursing facility, is listed in Subsections 501.01 through 501.04. (10-1-98)T

01. Single Participant. A participant is budgeted five hundred thirty-four dollars ($534) monthly as a basic allowance when living in a situation described in Subsections 501.01.a. through 501.01.f. (10-1-98)T

a. Living alone. (10-1-98)T

b. Living with his ineligible spouse. (10-1-98)T

c. Living with another participant who is not his spouse. (10-1-98)T

d. Living in another's household. (10-1-98)T

e. Living in a room and board home. Room and board is a living arrangement where the participant purchases lodging (room) and meals (board). (10-1-98)T

f. Living with his TAFI child. (10-1-98)T

02. Couple or Participant Living With Essential Person. A participant living with his participant spouse or his essential person is budgeted seven hundred fifty-six dollars ($756) monthly as a basic allowance. (10-1-98)T

03. SIGRIF. A participant living in a semi-independent group residential facility (SIGRIF) is budgeted three hundred forty-nine dollars ($349) monthly as a basic allowance. (10-1-98)T

502. SPECIAL NEEDS ALLOWANCES.
Special needs allowances are a restaurant meals allowance and a guide dog food allowance. (10-1-98)T

01. Restaurant Meals. The restaurant meals allowance is fifty dollars ($50) monthly. A physician must state the participant is physically unable to prepare food in his home. A participant able to prepare his food, but living in a place where cooking is not permitted, may be budgeted the restaurant meals allowance for up to three (3) months. (10-1-98)T

02. Guide Dog Food. The guide dog food allowance is seventeen dollars ($17) monthly. The allowance is budgeted for a blind participant, using a guide dog trained by a recognized guide dog school. (10-1-98)T

503. -- 510. (RESERVED).

511. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY (SIGRIF) ALLOWANCE.
The Adult Residential Care Committee (ARCC) must certify need for care, before the SIGRIF allowance can be budgeted. A participant's SIGRIF allowance is two hundred sixty-one dollars ($261) monthly. (10-1-98)T

512. UNLICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER HOME.
Each participant living in an unlicensed adult residential care facility or adult foster home is budgeted a basic allowance of fifty-eight dollars ($58) monthly. The participant is also budgeted an unlicensed care allowance, not to exceed three hundred and thirty dollars ($330) monthly. (10-1-98)T

513. LICENSED ADULT RESIDENTIAL CARE FACILITY AND ADULT FOSTER CARE HOME ALLOWANCES.
Each participant living in an adult residential care facility or adult foster home is budgeted a basic allowance of fifty-eight dollars ($58) monthly. A participant is also budgeted a monthly allowance for adult residential care or adult foster care based on his level of care. If the participant gets a lower level of care than his assessed level, his allowance is for the lower level of care. Care levels and monthly allowances are listed in Subsections 513.01 through 513.03.

TABLE 513 CARE LEVELS AND MAXIMUM PAYMENTS		
	LEVEL OF CARE	**MAXIMUM MONTHLY ALLOWANCE**
01.	LEVEL I	Seven hundred and sixty-seven dollars ($767).
02.	LEVEL II	Eight hundred and thirty-four dollars ($834).
03.	LEVEL III	Nine hundred and two dollars ($902).

(10-1-98)T

514. ADULT RESIDENTIAL CARE AND ADULT FOSTER CARE HOME ASSESSMENT AND LEVEL OF CARE.
The participant's need for care, level of care, plan of care, and the licensed facility's ability to provide care is assessed by the Regional Adult Residential Care Committee (ARCC) when a participant is admitted. The ARCC must approve the placement before AABD cash can be paid. (10-1-98)T

515. INCREASE IN LEVEL OF CARE.
An increase in level of care is effective the month the ARCC reassesses the level of care. The participant’s supplemental AABD cash is the difference between his AABD cash at the lower level of care and his AABD cash at the higher level of care. (10-1-98)T

516. DECREASE IN LEVEL OF CARE.
When the ARCC verifies the participant has a decrease in his level of care, his AABD cash must be decreased or closed, after timely notice. No overpayment exists for the month the level of care decreased. (10-1-98)T

517. -- 520. (RESERVED).

521. MOVE FROM LICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER CARE HOME TO LIVING SITUATION OTHER THAN A NURSING HOME OR HOSPITAL.
A participant may move from a licensed facility to a living situation, other than a nursing home or hospital. No change to his AABD cash is made, based on the move, until the next month. (10-1-98)T

522. MOVE TO A LICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER CARE HOME FROM NURSING HOME OR HOSPITAL.
A participant may move to an adult residential care facility or adult foster care home from a nursing home or hospital. AABD eligibility, payment amount and underpayment are determined for the month of the move. (10-1-98)T

523. MOVE TO A LICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER CARE HOME FROM LIVING SITUATION OTHER THAN NURSING HOME OR HOSPITAL.
A participant may move to a licensed facility, from a different living situation, other than a nursing home or hospital. The AABD underpayment is determined for the month of the move. (10-1-98)T

524. MOVE FROM NURSING HOME OR HOSPITAL.
A participant may move from a nursing home or hospital, to a different living situation, but not an adult residential care facility or adult foster care home. His AABD cash for the month is determined as if he lived in his new living situation the entire month. His AABD cash is his AABD allowances less his countable income. (10-1-98)T

525. -- 530. (RESERVED).

531. COUPLE BUDGETING.
Income of an AABD participant and his participant spouse living in the same household is combined. The twenty dollar ($20) standard income disregard and the sixty-five dollar ($65) earned income disregard are subtracted once a month, per couple. Each member of a couple living in an institution must have income budgeted as a single person. A couple living together as of the first day of a month, is counted as living together throughout that month. Budgeting as a couple continues through the month the couple stops living together. For couple budgeting, a household is a home, a rental, another's household, or room and board. (10-1-98)T

532. -- 539. (RESERVED).

540. STANDARD DISREGARD.
The standard disregard is twenty dollars ($20). The standard disregard is first subtracted from unearned income. If the unearned income is less than the standard disregard, the remainder of the standard disregard is subtracted from earned income. (10-1-98)T

01. Standard Disregard and a Couple. Subtract the standard disregard only once a month from the combined income of a couple in the same household. (10-1-98)T

02. Standard Disregard Exception. The standard disregard must not be subtracted from nonservice-connected VA payments, Title IV-E foster care payments, or BIA General Assistance. (10-1-98)T

541. SUBTRACTION OF EARNED INCOME DISREGARDS.
Earned income disregards are subtracted from AABD earned income in the order listed in Sections 542 through 547. They are subtracted the month the income is paid. (10-1-98)T

542. SIXTY-FIVE DOLLAR ($65) EARNED INCOME DISREGARD.
Sixty-five dollars ($65) of earned income in a month are not counted. Subtract the sixty-five dollar ($65) disregard only once a month from the combined income of a couple in the same household. (10-1-98)T

543. IMPAIRMENT-RELATED WORK EXPENSE (IRWE) DISREGARD.
Impairment-related work expenses are items and services needed and used by a disabled AABD participant to work. The items must be needed because of the participant's impairment. The items may be bought or rented. The cost for impairment-related work expenses is subtracted from the participant's earned income, for eligibility and AABD cash amount. An item disregarded as a blindness work expense, or as part of a PASS, cannot be disregarded as an impairment-related work expense. (10-1-98)T

544. ONE HALF (1/2) REMAINING EARNED INCOME DISREGARD.
One half (1/2) of earned income remaining, after the IRWE is subtracted, is not counted. (10-1-98)T

545. BLINDNESS WORK EXPENSE DISREGARD.
The cost of earning income is subtracted from the earned income of a blind person. The blind person must be under age sixty-five (65). If the blind person is age sixty-five (65) or older, he must receive SSI for blindness, or have received AABD the month before he became sixty-five (65). (10-1-98)T

01. Blind Work Expense Limit. Blindness work expenses are subtracted from earned income. The amount subtracted must not exceed the participant's monthly earnings. (10-1-98)T

02. No Duplication for Blind Work Expenses. Expenses, subtracted under the impairment-related work expense disregard, cannot be subtracted again under this disregard. (10-1-98)T

546. PLAN TO ACHIEVE SELF-SUPPORT (PASS).
A blind or disabled participant, with an approved plan to achieve self-support (PASS), must have income and resources disregarded. Conditions for this disregard are listed in Subsections 546.01 through 546.03. (10-1-98)T

01. Under Sixty-Five (65). The participant must be under sixty-five (65), or receive AABD for the blind or disabled during the month of his sixty-fifth birthday. (10-1-98)T

02. Approved PASS. A participant receiving SSI must have a PASS approved by SSA. A participant not receiving SSI must have a PASS approved by the Department. (10-1-98)T

03. Income Necessary for Self-Support. The income and resources disregarded under the PASS must be necessary for the participant to achieve self-support. (10-1-98)T

547. PASS APPROVED BY DEPARTMENT.
A PASS approved by the Department must be in writing. The PASS must contain all the items in Subsections 547.01 through 547.06. (10-1-98)T

01. Occupational Objective. The PASS must have a specific occupational objective. (10-1-98)T

02. Specific Goals. The PASS must have specific goals for using the disregarded income and resources to achieve self-support. (10-1-98)T

03. Time Limit. The PASS must show a specific target date to achieve the goal. An approved PASS is limited to an initial period of eighteen (18) months. Extensions may be granted if needed. (10-1-98)T

a. The first extension period lasts up to eighteen (18) months. (10-1-98)T

b. A second eighteen (18) month extension period can be granted. (10-1-98)T

c. A final extension, up to twelve (12) months can be granted. The PASS can be extended a total of forty-eight (48) months, when the original PASS goal required extensive education or vocational training. (10-1-98)T

04. No Duplication of Disregards. An item disregarded as an impairment-related work expense or under the blindness exception cannot be disregarded under the PASS. (10-1-98)T

05. Resource Limitation. The PASS disregard must not be used for resources, unless the resources

cause the participant to be ineligible without the PASS disregard. (10-1-98)T

06. Disregard of Resources. The PASS must list the participant's resources. The PASS must list any resources the participant will receive under the plan. The PASS must show how the resources will be used toward the occupational goal. The PASS must list goal-related items or activities requiring savings or purchases and the amounts the participant plans to save or spend. The PASS must list resources disregarded under the plan. The PASS must show resources disregarded under the plan can be identified separate from the participant's other resources. (10-1-98)T

548. -- 599. (RESERVED).

600. DEPARTMENT NOTICE RESPONSIBILITY.
The participant must be notified of changes in eligibility or AABD cash amount. The notice must give the effective date, the reason for the action, the rule that supports the action, and appeal rights. (10-1-98)T

601. ADVANCE NOTICE RESPONSIBILITY.
When a reported change results in closure or decrease, the participant must be notified at least ten (10) calendar days before the effective date of the action. (10-1-98)T

602. ADVANCE NOTICE NOT REQUIRED.
Advance notice is not required when a condition listed in Subsections 602.01 through 602.10 exists. The participant must be notified by the date of the action. (10-1-98)T

01. Death of Participant. The Department has proof of the participant's death. (10-1-98)T

02. Participant Request. The participant requests closure in writing. (10-1-98)T

03. Participant in Institution. The participant is admitted or committed to an institution. Further payments to the participant do not qualify for federal financial participation under the state plan. (10-1-98)T

04. Nursing Care. The participant is placed in a nursing facility, or Intermediate Care for the Mentally Retarded. (10-1-98)T

05. Participant Address Unknown. The participant's whereabouts are unknown. Department mail is returned with no forwarding address. (10-1-98)T

06. Aid in Another State. A participant is approved for aid in another state. (10-1-98)T

07. Eligible One (1) Month. The participant is eligible for aid only during the calendar month of his application for aid. (10-1-98)T

08. Non-Citizen With Emergency. The participant is an illegal or legal non-citizen whose Medicaid eligibility ends the day his emergency medical condition stops. (10-1-98)T

09. Retroactive Medicaid. The participant's Medicaid eligibility is for a prior period. (10-1-98)T

10. Special Allowance. A special allowance granted for a specific period is stopped. (10-1-98)T

11. Patient Liability. Patient liability or client participation changes. (10-1-98)T

12. Level of Care. The participant's level of care changes. (10-1-98)T

603. RETROACTIVE AABD CASH.
Retroactive AABD cash is paid when a participant is underpaid due to Department error. Retroactive AABD cash is paid when a participant gets a favorable fair hearing decision. Retroactive AABD cash is paid when an AABD applicant's SSI payments are delayed because of SSA delays. (10-1-98)T

604. RETROACTIVE AABD CASH AND PARTICIPANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
If the SSA finds a participant is blind or disabled, based on an appeal of an SSA decision, the participant meets the disability requirements for AABD cash and related Medicaid on the effective date determined by SSA. (10-1-98)T

605. REPORTING REQUIREMENTS.
The participant must report changes in circumstances verbally or in writing, within ten (10) calendar days from the date the change becomes known to him. The participant must show good cause for not reporting changes. If failure to report a change results in an overpayment, the overpayment must be recovered. (10-1-98)T

606. CHANGES AFFECTING ELIGIBILITY OR AABD CASH AMOUNT.
If a participant reports a change that results in an increase, AABD cash is increased effective the month of report. If a participant reports a change that results in a decrease, AABD cash is decreased or ended effective the first month after proper notice. (10-1-98)T

607. AABD CASH UNDERPAYMENT.
If the Department is at fault for issuing a payment less than the participant should have received, the Department issues a supplemental payment for the difference. (10-1-98)T

608. AABD CASH OVERPAYMENT.
If the participant is paid more AABD cash than he is eligible for, the Department must collect the overpayment. The Department must notify the participant of the right to a hearing, the method for repayment and the need for a repayment interview. (10-1-98)T

609. OFFSET OF OVERPAYMENT AND UNDERPAYMENT.
When an underpayment is computed, any overpayment for that month is subtracted from the underpayment. When an overpayment is computed, any underpayment for the month is subtracted. (10-1-98)T

610. -- 619. (RESERVED).

620. MEDICAID OVERPAYMENT.
If the participant receives Medicaid services during a month he is not eligible, the Department must collect the overpayment. If too little patient liability or client participation is computed, the Department must collect the overpayment. The participant must be notified of the overpayment. (10-1-98)T

621. -- 622. (RESERVED).

623. ELIGIBILITY REDETERMINATION.
An eligibility redetermination is completed at least once every year and when a change affecting eligibility occurs. (10-1-98)T

624. -- 649. (RESERVED).

650. COOPERATION WITH THE QUALITY CONTROL PROCESS.
When the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case. Benefits must be stopped, following advance notice, when a participant is unwilling to take part in the quality control process. If the participant reapplies for benefits he must fully cooperate with the quality control process before the application can be approved. (10-1-98)T

651. -- 699. (RESERVED).

700. MEDICAID ELIGIBILITY.
A participant must meet the eligibility requirements for at least one (1) Medicaid coverage group to be eligible for Medicaid benefits. Income and circumstances in the current month are used for eligibility for the current month. Resources are counted as of the first moment of the month. (10-1-98)T

701. MEDICAID APPLICATION.
An adult participant, a legal guardian or a representative of the participant must sign the application form. The participant must submit the application form to the Department. A Medicaid application may be made for a deceased person. (10-1-98)T

702. MEDICAL SUPPORT COOPERATION.
Medical support rights are assigned to the Department by signature on the application. The participant must cooperate with the Department to secure medical support and payments, to be eligible for Medicaid. The participant must cooperate on behalf of himself and any participant for whom he can legally assign rights. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (10-1-98)T

703. CHILD SUPPORT COOPERATION.
The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child support order, to be eligible for Medicaid The cooperation requirement is waived for poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of a child born out of wedlock. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (10-1-98)T

704. GOOD CAUSE FOR NOT COOPERATING IN SECURING MEDICAL AND CHILD SUPPORT.
The participant may claim good cause for failure to cooperate in securing medical and child support for himself or a minor child. Good cause is limited to the reasons listed in Subsections 704.01 through 704.03. (10-1-98)T

01. Rape or Incest. There is proof the child was conceived as a result of incest or rape. (10-1-98)T

02. Physical or Emotional Harm. There is proof the child's non-custodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent or the caretaker relative. (10-1-98)T

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. (10-1-98)T

705. CLOSURE AFTER REVIEW OF GOOD CAUSE REQUEST.
If the participant claims good cause for not cooperating, but the Department determines there is not good cause, the participant must be given the opportunity to withdraw the application or have his Medicaid closed. (10-1-98)T

706. GROUP HEALTH PLAN ENROLLMENT REQUIREMENT.
The participant must apply for and enroll in a cost-effective group health plan if one is available. Medicaid must not be denied, delayed, or stopped pending the start of a participant's group health insurance coverage. A child entitled to enroll in a group health plan must not be denied Medicaid solely because his caretaker fails to apply for the child's enrollment. (10-1-98)T

707. MEDICAID QUALIFYING TRUST PAYMENTS.
For Medicaid Qualifying Trusts established before August 11, 1993, the maximum payment permitted to be made to a participant from the trust must be counted for Medicaid eligibility. The maximum is counted whether or not the trustee actually distributes payments. (10-1-98)T

708. MEDICAID ELIGIBILITY FOR AABD PARTICIPANT.
A participant eligible for AABD cash is eligible for Medicaid, unless he is in an ineligible institution, receives excess payment from a Medicaid Qualifying Trust, or has an irrevocable trust that is not exempt. (10-1-98)T

709. -- 720. (RESERVED).

721. LONG-TERM CARE RESIDENT AND MEDICAID.
A resident of a long-term care facility must meet the AABD eligibility criteria to be eligible for Medicaid. A long-term care facility is a nursing facility, or an intermediate care facility for the mentally retarded. Long-term care certification is determined using IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. (10-1-98)T

01. Resources of Resident. The resident's resource limit is two thousand dollars ($2,000). Resources of a married person in long-term care are computed using Federal Spousal Impoverishment rules. Under the SSI method, spouses can use the three thousand dollar ($3,000) couple resource limit if more advantageous. The couple must have lived in the nursing home, in the same room, for six (6) months. The principal balance of an excluded real estate contract is not a resource, unless it is more restrictive to Medicaid eligibility than counting the contract as a resource. (10-1-98)T

02. Medicaid Income Limit of Long-Term Care Resident Thirty (30) Days or More. The monthly income limit for a long-term care facility resident is three (3) times the Federal SSI benefit for a single person. To qualify for this income limit the participant must be, or likely to remain, in long-term care at least thirty (30) consecutive days. (10-1-98)T

03. Medicaid Income Limit of Long-Term Care Resident Less Than Thirty (30) Days. The monthly income limit, for the resident of a long-term care facility for less than thirty (30) consecutive days, is the AABD income limit for the participant's living situation before long-term care. Living situations before long-term care do not include hospital stays. (10-1-98)T

04. Income Not Counted. The income listed in Subsections 721.04.a. through 721.04.e. is not counted to compute Medicaid eligibility for a long-term care facility resident. This income is counted in determining participation in the cost of long-term care, except a VA "Aid and Attendance" allowance and any increment which represents a VA Unusual Medical Expense allowance. (10-1-98)T

a. Excluded AABD income. Income excluded or disregarded, in determining eligibility for AABD cash, is not counted. (10-1-98)T

b. RSDI increase. The September 1972 RSDI increase is not counted. (10-1-98)T

c. VA aid and attendance. Any VA Aid and Attendance allowance, including any increment which is the result of a VA Unusual Medical Expense allowance, is not counted. These allowances are not counted for patient liability. (10-1-98)T

d. RSDI COLA increase. RSDI benefit increases, from cost-of-living adjustments (COLA) after April 1977, are not counted if they made the participant lose SSI or AABD cash. The COLA increases after SSI or AABD cash stopped are not counted. (10-1-98)T

e. Income paid into exempt income trust. Income paid into an income trust exempt from counting for Medicaid eligibility under Sections 701.01 through 701.03 is used for patient liability is not counted. Income paid to the trust and not used for patient liability, is subject to the asset transfer penalty. (10-1-98)T

722. PATIENT LIABILITY.

Patient liability is the participant's income counted toward the cost of long-term care. Patient liability starts the first full calendar month the patient lives in long-term care. (10-1-98)T

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.

For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03. (10-1-98)T

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03. (10-1-98)T

02. Community Property Income of Long-Term Care Participant With Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (10-1-98)T

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03.a. through 723.03.n. subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (10-1-98)T

a. AABD income exclusions. Subtract income excluded in determining eligibility for AABD cash. (10-1-98)T

b. Aid and attendance and UME allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse. (10-1-98)T

c. SSI payment two (2) months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (10-1-98)T

d. AABD payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (10-1-98)T

e. Protected VA pension. Subtract a protected VA pension for a veteran with no spouse or dependents or for a surviving spouse with no dependents. (10-1-98)T

f. Personal needs. Subtract thirty dollars ($30) for the participant’s personal needs. For a veteran or surviving spouse with a protected VA pension, the protected pension substitutes for the thirty dollar ($30) personal needs deduction. (10-1-98)T

g. Employed and sheltered workshop activity personal needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of eighty dollars ($80) or his earned income. The participant's total personal needs allowance must not exceed one hundred and ten dollars ($110). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed eighty dollars ($80). This is a deduction only. No actual payment can be made to provide for personal needs. (10-1-98)T

h. Home maintenance. Subtract two hundred and twelve dollars ($212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (10-1-98)T

i. Maintenance need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (10-1-98)T

j. Medicare and health insurance premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (10-1-98)T

k. Mandatory income taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (10-1-98)T

l. Guardian fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly.

(10-1-98)T

m. Trust fees. Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust. (10-1-98)T

n. Impairment related work expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (10-1-98)T

724. INCOME OWNERSHIP OF PARTICIPANT WITH COMMUNITY SPOUSE.
Income ownership of a long-term care participant with a community spouse is determined before patient liability is computed. The participant's income ownership is counted as shown in Subsections 724.01 through 724.04. (10-1-98)T

01. Income Paid in the Name of Spouse. Income paid solely in the name of a spouse, and not paid from a trust, is the separate income of the spouse. (10-1-98)T

02. Payment In Name of Both Spouses. Income paid in the names of both the long-term care participant and the community spouse is divided evenly between each spouse. (10-1-98)T

03. Payment In Name of Spouse or Spouses and Another Person. Income paid in the names of the participant and/or the community spouse and another person is counted as available to each spouse, in proportion to the spouse's ownership. If payment is made to both spouses, and no proportion of ownership is specified, one-half of the income is counted to each spouse. (10-1-98)T

04. Payment of Aid and Attendance. In the case of VA Aid and Attendance Allowance paid in the veteran's name, with an increment for the veteran's spouse, the increment is counted to the veteran. (10-1-98)T

725. PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE.
After income ownership is decided, patient liability is determined using steps in Table 725.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
	STEP	**PROCEDURE**
01.	AABD Income Exclusions	Subtract income excluded in determining eligibility for AABD cash.
02.	Aid and Attendance and UME Allowances	Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse.
03.	SSI Payment Two (2) Months	Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility.
04.	AABD Cash	Subtract the AABD cash payment and income used to compute AABD cash, for a participant eligible to have his AABD cash continued up to three (3) months, while he is in long-term care.
05.	Protected VA Pension	Subtract a protected VA pension for a veteran with no spouse or dependents or for a surviving spouse with no dependents.
06.	Personal Needs	Subtract thirty dollars ($30) for the participant's personal needs. Do not allow this deduction for a veteran or surviving spouse with a protected VA pension. The protected pension substitutes for the thirty dollar ($30) personal needs deduction.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
	STEP	**PROCEDURE**
07.	Employed and Sheltered Workshop Activity Needs	For an employed participant or participant engaged in sheltered workshop or work activity center activities subtract the lower of eighty dollars ($80) or his earned income.
08.	Community Spouse Allowance Step a.	Compute the Community Spouse Allowance (CSA) using Step a. through Step c. Compute the Shelter Adjustment. Add the current Food Stamp Program Standard Utility Allowance to the community spouse's shelter costs. Shelter costs include rent, mortgage principal and interest, homeowner's taxes, insurance, and condominium or cooperative maintenance charges. The Standard Utility Allowance must be reduced by the value of any utilities included in maintenance charges for a condominium or cooperative. Subtract the Shelter Standard from the shelter and utilities. The Shelter Standard is thirty percent (30%) of one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the Federal Office of Management and Budget (OMB) for a family of two (2) persons. The Shelter Adjustment is the positive balance remaining.
09.	Community Spouse Allowance Step b.	Compute the Community Spouse Need Standard (CSNS). Add the Shelter Adjustment to the minimum CSNS. The minimum CSNS equals one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the OMB for a family unit of two (2) members. The minimum CSNS is revised annually in July. The total CSNS may not exceed the maximum CSNS. The maximum CSNS is computed by multiplying one thousand five hundred dollars ($1,500) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The maximum CSNS is revised annually in January.
10.	Community Spouse Allowance Step c.	Compute the Community Spouse Allowance. Subtract the community spouse's gross income from the CSNS. The community spouse's income includes income produced by his resources. Round any remaining cents to the next higher dollar. Any positive balance remaining is the CSA. The CSA is subtracted as actually paid to the community spouse, up to the computed maximum. A larger spouse support amount must be used as the CSA, if court-ordered. The CSA ordered by a court is not subject to the CSA limit.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
	STEP	**PROCEDURE**
11.	Family Member Allowance (FMA)	Compute the family member's gross income. Subtract the family member's gross income from the minimum CSNS. Divide the difference by three (3). Round cents to the next higher dollar. Any remainder is the FMA for that family member. The FMA is allowed, whether or not it is actually paid by the participant. A family member is, or could be claimed, as a dependent on the Federal income tax return of either spouse. The family member must be a minor or dependent child, dependent parent or dependent sibling of either spouse. The family member must live in the community spouse's home.
12.	Medicare and Health Insurance Premiums	Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Do not subtract the Medicare Part B premiums if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed.
13.	Mandatory Income Taxes	Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income.
14.	Guardian Fees	Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly.
15.	Trust Fees	Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust.
16.	Impairment Related Work Expenses	Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged.

(10-1-98)T

726. FAIR HEARING ON CSA DECISION.

Either spouse may ask for a fair hearing, to show the community spouse needs a higher CSA. The hearing officer must consider if, due to unusual conditions, using the computed CSA causes significant financial hardship for the community spouse. If the fair hearing decision finds the community spouse needs more income than the CSA, the CSA must include the additional income. (10-1-98)T

727. -- 730. (RESERVED).

731. MEDICAID ELIGIBILITY OF MARRIED PERSONS.
There are three (3) methods for Medicaid eligibility of an aged, blind, or disabled married person: The SSI method, the Community Property (CP) method, and the Federal Spousal Impoverishment (FSI) method. The FSI method takes precedence. If the participant is not subject to the FSI method, the CP or SSI methods can be used. (10-1-98)T

732. CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD.
Table 732 is used determine the resource counting method for a married person. If an HCBS participant with a spouse at home is not eligible using the FSI method, resources are computed using the SSI/CP method.

TABLE 732 - CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	SSI/CP	FSI	SSI/CP	SSI/CP	FSI
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(10-1-98)T

733. CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD.
Table 733 is used determine the income counting method for a married person. If a participant subject to the FSI method is not eligible using FSI, income is computed using the SSI/CP method.

TABLE 733 - CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89

SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	FSI	FSI	SSI/CP	FSI	FSI
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(10-1-98)T

734. CHOOSING FSI, SSI, OR CP PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD.
Table 734 is used determine the patient liability or client participation method for a married participant in long term care or receiving HCBS.

TABLE 734 - PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	FSI	FSI	N/A	FSI	FSI
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(10-1-98)T

735. FEDERAL SPOUSAL IMPOVERISHMENT (FSI) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The FSI method must be used to compute income and resources of a married long-term care participant, with a community spouse. The participant must have entered long-term care on or after September 30, 1989. Terms used in the FSI method are listed in Subsections 735.01 through 735.05. (10-1-98)T

01. Long-Term Care Spouse. The long-term care spouse must be in a medical institution or nursing facility, or be an HCBS participant, for thirty (30) consecutive days, or appear likely to meet the thirty (30) days requirement. (10-1-98)T

02. Community Spouse. The community spouse is the husband or wife of the long-term care participant. A community spouse is not in long-term care and is not an HCBS participant. (10-1-98)T

03. Continuous Period of Long-Term Care. A continuous period of long-term care is a period of residence either in a medical institution with nursing facility services, or at home with HCBS. A continuous period of long-term care is also a combination of institution and personal care services likely to last at least thirty (30) consecutive days. Absence from the institution, or a lapse in HCBS eligibility, of thirty (30) consecutive days breaks continuity. The thirty (30) consecutive days of long-term care must not begin on a day the participant is hospitalized. If the participant is hospitalized after the first day of the thirty (30) consecutive days, the hospital stay does not interrupt the thirty (30) consecutive days. (10-1-98)T

04. Start of Continuous Period. The start of a continuous period of long-term care is the first month of long-term care or HCBS. (10-1-98)T

05. Nursing Facility Services. Nursing facility services are services at the nursing facility level or the intermediate care for the mentally retarded level provided in a medical institution. (10-1-98)T

736. ASSESSMENT DATE AND COUNTING FSI RESOURCES.
The assessment date is the start date of the first continuous period of long-term care, on or after September 30, 1989. The Department does a one-time assessment to determine the value of the couple's community and separate resources as of the date of the first continuous period of long-term care on or after September 30, 1989. The resource assessment is done at the request of either spouse, after one spouse is in long-term care or begins HCBS, whether or not the couple has applied for Medicaid. State laws relating to community property or the division of marital property are not applied in determining the FSI total combined resources of the couple. (10-1-98)T

737. RESOURCES EXCLUDED FROM ASSESSMENT.
Resources excluded in determining AABD cash are excluded in determining the couple's total combined FSI resources except: There is no limit on the total value of household goods and personal effects and one (1) automobile is excluded regardless of its value. Any additional automobiles are countable resources in the amount of their equity value. Excess resources offered for sale, are not excluded from the couple's total combined resources for the FSI resource assessment. Jointly owned real property is not excluded, if the community spouse is the joint owner. (10-1-98)T

738. ONE-HALF (1/2) SPOUSAL SHARE.
The spousal share is one-half (1/2) of the couple's total combined resources on the assessment date. The spousal share does not change, even if the participant leaves long-term care and then enters long-term care again. The Department must inform the couple of the resources counted in the assessment and the value assigned. The couple must sign the assessment form under penalty of perjury. The signature requirement may be waived for the long-term care spouse if he or his representative says he is unable to sign the resources assessment. A copy of the assessment form must be

provided to each spouse when eligibility is determined or when either spouse requests a assessment prior to application. (10-1-98)T

739. -- 741. (RESERVED).

742. COMMUNITY SPOUSE RESOURCE ALLOWANCE.
The CSRA protects resources for the community spouse. The CSRA is determined by subtracting the greater of the minimum resource allowance, or the spousal share from the couple's total combined resources. The deduction must not be more than the maximum resource allowance. (10-1-98)T

743. RESOURCE ALLOWANCE LIMITS.
The maximum resource allowance is computed by multiplying sixty thousand dollars ($60,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The minimum resource allowance is computed by multiplying twelve thousand dollars ($12,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. If the result is not an even one hundred dollar ($100) amount, round up to the next one hundred dollars ($100). The couple's resources exceeding the CSRA are counted for the long-term care spouse. (10-1-98)T

744. CSRA REVISION.
If the couple’s income is more than the minimum CSA, the CSRA cannot be increased. If the community spouse has less income than the minimum CSA, the CSRA may be increased as provided in Section 745. Couple income is the community spouse’s gross income plus the long-term care spouse’s income. The long-term care spouse’s income is his gross income less the AABD cash income exclusions and his patient liability income deductions, but not the CSA deduction. (10-1-98)T

745. UPWARD REVISION OF CSRA.
If the community spouse's own income, plus his income from income-producing resources in the CSRA, is less than the minimum CSA, the CSRA may be increased. The CSRA is increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSA. Resources included in the transfer are presumed to produce income of five percent (5%) yearly, whether or not the resources produce income, or produce five percent (5%). If the community spouse shows he is making reasonable use of his income and resources, to generate income, the Department may waive the five percent (5%) yearly income requirement. Actual income produced by the resources transferred to the community spouse is used to compute the CSA. If the transferred resources produce more than five percent (5%) yearly income, the actual income produced is used to determine the additional resources that can be transferred to the community spouse in the CSRA. The long-term care spouse must transfer the resources to the community spouse, or the CSRA is not revised. (10-1-98)T

746. RESOURCE TRANSFER ALLOWANCE (RTA).
The resource transfer allowance (RTA) is computed by subtracting the community spouse's resources, at the time of application, from the CSRA. The community spouse must own less than the CSRA to get an RTA. The long term care spouse may transfer the RTA to the community spouse without an asset transfer penalty. If the institutional spouse transfers more than the RTA, the amount of the couple's resources over the CSRA counts as the institutional spouse's resources. After the month a long-term care spouse is determined Medicaid eligible under FSI, resources of the community spouse are not considered available to the him while he remains in long-term care. (10-1-98)T

747. PROTECTED PERIOD FOR RTA TRANSFER.
The long-term care spouse has sixty (60) days, from the date his application is approved, to transfer his ownership of the RTA resources to the community spouse. The long-term care spouse must state, in writing, his intent to transfer the RTA resources to the community spouse, within the protected period, before he can be Medicaid eligible. Resources not transferred within the sixty (60) day protected period are available to the long-term care spouse, effective the day he entered the facility. (10-1-98)T

748. EXTENSION FOR RTA TRANSFER.
The protected period can be extended beyond sixty (60) days if necessary because of the participant's circumstances. (10-1-98)T

749. RESOURCE ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's resources are counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. For the month the couple stopped living together, resources of the community spouse available for his Medicaid eligibility are the resources owned by the couple. (10-1-98)T

750. INCOME ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's income is counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. The community spouse may choose between the SSI and CP methods for determining income for Medicaid eligibility. (10-1-98)T

751. CHANGE IN CIRCUMSTANCES.
The FSI method of calculating income and resources stops the first full calendar month after a change in circumstances resulting in a couple no longer having a community spouse and a long-term care spouse. (10-1-98)T

752. NOTICE AND HEARING.
The Department must tell the participant the CSA, the family member allowance, the CSRA and how it was computed, and RTA. Any hearing requested about the CSRA or the RTA must be held within thirty (30) days of the date of the request for hearing. (10-1-98)T

753. -- 760. (RESERVED).

761. CHOICE OF SSI OR CP METHODS.
A married participant, not using FSI, must be furnished a written explanation of SSI and CP income and resource counting methods. The couple chooses the most useful method, based on their circumstances. The same method must be used for both spouses. (10-1-98)T

762. SSI METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The SSI method is the same method used to count income and resources for AABD cash. Income and resources of the participant and spouse are counted as mutually available. This method must be used for months either spouse gets SSI or AABD cash, or an SSI and/or AABD application is filed and approved. This method must be used for Medicaid eligibility, and liability for the cost of long-term care, whether one (1) or both spouses apply for Medicaid. For long-term care, the couple’s income and resources are mutually available when one (1) or both spouses apply during the month they separated, because one (1) or both left their mutual home to enter a long-term care facility. (10-1-98)T

763. COMMUNITY PROPERTY (CP) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
A married participant in long-term care, whose spouse is not in the community, can use the CP method. A married participant using the FSI method, but not income eligible using FSI, may choose the CP method for income eligibility. The CP method must not be used for the FSI participant’s resource eligibility or patient liability. (10-1-98)T

764. CP METHOD.
The CP method gives each spouse has an equal one-half share of the couple's community income and resources. Each spouse also has his or her own separate income and resources. Whether the spouses live together or, if not living together, the length of time they have lived apart, does not change the way income and resources are counted. A spouse's property includes income, personal property and real property. The income and resources of a married couple acquired during the marriage are presumed to be community property of the couple. The couple can give evidence to rebut the presumption that property acquired during the marriage is community property. (10-1-98)T

765. TRANSFER OF RIGHTS TO FUTURE INCOME NOT VALID.
An agreement between spouses, transferring or assigning rights to future income from one (1) spouse to the other, is not valid for eligibility for Medicaid. (10-1-98)T

766. CP METHOD NEED STANDARD.
The participant is budgeted as a single person if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. The participant and spouse are budgeted as a couple if they both apply, and live together, or if they were living together on the first day of the month. (10-1-98)T

767. CP METHOD RESOURCE LIMIT.
The participant's resource limit is two thousand dollars ($2,000) if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. The participant and spouse have a resource limit of three thousand dollars ($3,000) if they both apply, and live together, or if they were living together on the first day of the month. (10-1-98)T

768. CP METHOD INCOME DISREGARDS.
The participant gets the twenty dollar ($20) standard disregard if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. If the participant has earned income, he gets the sixty-five dollar plus one-half ($65 + 1/2) of the remainder earned income disregard. The participant and spouse get the standard disregard on their combined unearned income if they both apply, and live together, or if they were living together on the first day of the month. If either spouse has earned income, they get the earned income disregard from their combined earned income. (10-1-98)T

769. -- 775. (RESERVED).

776. 1972 RSDI RECIPIENT.
A participant remains eligible if he meets any of the conditions in Subsections 776.01 through 776.03 and all other Medicaid eligibility requirements. (10-1-98)T

01. Money Payment in August 1972. In August 1972, the participant was eligible for, or received, a state money payment of OAA, AB, APTD or Aid to Families with Dependent Children (AFDC). (10-1-98)T

02. Eligible If Not in Institution. The participant would have been eligible for OAA, AB, APTD or Aid to Families with Dependent Children (AFDC) if he were not in a medical institution or intermediate care facility in August 1972. (10-1-98)T

03. Getting RSDI in August 1972. The participant received RSDI benefits in August 1972, and became ineligible for a state money payment due to the RSDI benefit increase effective in September 1972. (10-1-98)T

777. ELIGIBLE SSI RECIPIENT.
An SSI recipient, or an individual who would be SSI eligible if he applied, is eligible for Medicaid if he meets any of the conditions in Subsections 777.01 through 777.03. (10-1-98)T

01. Receives SSI. Gets SSI payments, even if eligibility is based on presumptive disability or presumptive blindness. (10-1-98)T

02. Conditionally Eligible. Is conditionally eligible for SSI, based on an agreement to dispose of excess resources. (10-1-98)T

03. Eligible Spouse. Has his SSI payments combined with his spouse's SSI payments. (10-1-98)T

778. INELIGIBLE SSI RECIPIENT.
An SSI recipient is not eligible for Medicaid if he meets any of the conditions in Subsections 778.01 through 778.04. (10-1-98)T

01. Medicaid Qualifying Trust. Has excess income from a Medicaid Qualifying Trust, created and funded before August 11, 1993. (10-1-98)T

02. Noncooperation. Fails to cooperate in establishing paternity or securing support. (10-1-98)T

03. Institution. Is in an ineligible institution. (10-1-98)T

04. Trust. Has a trust that makes him ineligible for Medicaid. (10-1-98)T

779. PSYCHIATRIC FACILITY RESIDENT.
A resident of a long-term care psychiatric medical facility, is eligible for Medicaid if he is age sixty-five (65) or older. He must meet all the requirements of a long-term-care resident. (10-1-98)T

780. GRANDFATHERED SSI RECIPIENT.
A grandfathered SSI recipient is eligible for Medicaid. A grandfathered SSI recipient received, or was eligible to receive, APTD, APTD-MA, AB or AB-MA or APTD-MA in long-term care on December 31, 1973, or had an application for this assistance on file December 31, 1973. (10-1-98)T

01. Disability and Blindness Criteria. The grandfathered SSI recipient must have been eligible under the disability criteria for APTD or the blindness criteria for AB in effect on December 31, 1973. For each consecutive month after December 1973, the grandfathered SSI recipient must continue to meet the criteria for disability or blindness. (10-1-98)T

02. Eligibility Requirements. The grandfathered SSI recipient must meet all current Medicaid rules, except the criteria for blindness or disability. A long-term care participant must also remain in long-term care, and continue to need long-term care. (10-1-98)T

781. RSDI RECIPIENT ENTITLED TO COLA DISREGARD.
A participant receiving RSDI is eligible for Medicaid if he became and remains ineligible for AABD cash or SSI payments after April, 1977. The participant must still be entitled to AABD cash or SSI, except for a cost-of-living adjustment (COLA) in RSDI benefits. All RSDI COLAs received by the participant, and any person whose income and resources are counted in determining the participant’s eligibility, are disregarded for Medicaid. (10-1-98)T

782. PARTICIPANT ENTITLED TO SECTION 1619b SSI ELIGIBILITY STATUS.
A participant is eligible for Medicaid as a blind or disabled SSI recipient, if SSA is evaluating him for, or has granted him, SSI eligibility status under Section 1619b of the Social Security Act, for as long as his 1619b status continues. (10-1-98)T

783. APPEAL OF SSA DECISION - APPLICANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
An applicant denied Medicaid, because he does not meet SSI eligibility or RSDI disability requirements, can appeal the SSA denial with SSA. He can get Medicaid, if found eligible for SSI or Social Security disability as a result of his appeal. The effective date for Medicaid is the first day of the month of the Medicaid application that was denied, because of the SSA denial. The participant's eligibility for backdated Medicaid coverage must be determined. (10-1-98)T

784. APPEAL OF SSA DECISION AND CONTINUED MEDICAID.
A Medicaid participant, denied RSDI or SSI because he is not disabled, can continue to get Medicaid if he appeals the SSA decision. The appeal must be filed within sixty (60) days of the SSA decision. If the final administrative decision rules against the participant's appeal, Medicaid benefits must end. Medicaid benefits paid during the appeal are not an overpayment. (10-1-98)T

785. CERTAIN DISABLED CHILDREN.
A disabled child, not eligible for Medicaid outside a medical institution, is eligible for Medicaid if he meets the conditions in Subsection 785.01 through 785.07. (10-1-98)T

01. Age. Is under nineteen (19) years old. (10-1-98)T

02. AABD Criteria. Meets the AABD blindness or disability criteria. (10-1-98)T

03. AABD Resource Limit. Meets the AABD single person resource limit. (10-1-98)T

04. Income Limit. Has monthly income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (10-1-98)T

05. Eligible for Long Term Care. Meets the medical conditions for long-term care in IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. (10-1-98)T

06. Appropriate Care. Is appropriately cared for outside a medical institution, under a physician's plan of care. (10-1-98)T

07. Cost of Care. Can be cared for cost effectively at home. The estimated cost of caring for the child at home must not exceed the cost of the child's care in a hospital, nursing facility, or ICF-MR. (10-1-98)T

786. EXTENDED (POSTPARTUM) MEDICAID FOR PREGNANT WOMEN.
A woman receiving Medicaid while pregnant continues to be eligible through the last day of the month in which the sixty (60) day post partum period ends. (10-1-98)T

787. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).
An aged, blind or disabled person not eligible for SSI or AABD cash in his own home, because of income deeming or income limits, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.12. (10-1-98)T

01. Age. Is at least twenty-one (21) years old. (10-1-98)T

02. AABD Criteria. If under age sixty-five (65), meets the AABD blindness or disability criteria. (10-1-98)T

03. AABD Resource Limit. Meets the AABD single person resource limit. (10-1-98)T

04. HCBS Income Limit. For HCBS-NF, has income not exceeding nine hundred fifty-five dollars ($955). For HCBS-DD, has income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (10-1-98)T

05. Eligible for Long Term Care. For HCBS-NF, meets the medical conditions for nursing facility care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. For HCBS-DD, meets the medical conditions for ICF/MR care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Section 143. (10-1-98)T

06. Home Care. For HCBS-NF, can be maintained in his own home with Personal Care Services (PCS) furnished under the Department's HCBS waiver. For HCBS-DD, can be maintained in the community. (10-1-98)T

07. Cost of Care. For HCBS-NF, can be cared for at home at a cost not to exceed the statewide average cost of care for the participant's level of care. The estimated cost of care in a nursing facility is the statewide average rate for the level of care the participant requires, charged by the type of facility where he would be placed if he were not living at home. For traumatic brain injury patients, the estimated cost of care is at the nursing facility special rate. (10-1-98)T

08. Care Requirement. For HCBS-NF, must require and receive, or be likely to require and receive, HCBS waiver personal care services for thirty (30) consecutive days. For HCBS-DD, must require and receive, or be likely to require and receive, HCBS-DD waiver services for thirty (30) consecutive days. (10-1-98)T

09. Effective Date. Medicaid is effective the first day of the thirty (30) day period the participant required and received HCBS-NF or HCBS-DD waiver services. (10-1-98)T

10. Participant With Spouse. A married participant living at home with his spouse who is not and HCBS participant, can choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple can choose between the SSI and CP methods. (10-1-98)T

11. Continued Services. The participant must continue to require and receive waiver services. The participant is ineligible when there is a lapse in need for or receipt of waiver services for thirty (30) days. (10-1-98)T

12. Annual Limit. A participant who applies for HCBS Medicaid, after the annual limit on HCBS-NF or HCBS-DD waiver participants is reached, must be denied Medicaid. (10-1-98)T

788. -- 799. (RESERVED).

800. NEWBORN CHILD OF MEDICAID MOTHER.
A child is eligible for Medicaid without an application if born to a woman receiving Medicaid on the date of the child's birth. The child must live with his mother. She must be eligible for Medicaid, or would be, if pregnant. The child remains eligible for Medicaid for up to one (1) year without an application. An application for Medicaid must be filed on behalf of the child no later than his first birthday. He must qualify for Medicaid in his own right after the month of his first birthday. (10-1-98)T

801. INELIGIBLE NON-CITIZEN WITH EMERGENCY MEDICAL CONDITION.
An ineligible legal or illegal non-citizen is eligible only for medical services necessary to treat an emergency medical condition. (10-1-98)T

01. Emergency Medical Condition. An emergency medical condition can reasonably be expected to seriously harm the patient's health, cause serious impairment to bodily functions, or cause serious dysfunction of any bodily organ or part, without immediate medical attention. The Division of Medicaid determines if the condition is an emergency and the services necessary to treat it. (10-1-98)T

02. Effective Date of Eligibility. Medicaid eligibility begins no earlier than the date the participant experienced the medical emergency and ends the date the emergency condition stops. The Division of Medicaid determines the beginning and ending dates. (10-1-98)T

802. -- 805. (RESERVED).

806. DISABLED ADULT CHILD.
A participant age eighteen (18) or older is eligible for Medicaid if he received SSI or AABD cash based on blindness or a disability which began before he reached age twenty-two (22), and becomes ineligible for and remains ineligible for AABD cash or SSI because his disabled child RSDI benefit started or increased July 1, 1987, or later. (10-1-98)T

01. RSDI Benefits Disregarded for Disabled Adult Child. If the participant became ineligible because he began receiving an disabled child benefit on or after July 1, 1987, the benefit amount and any later increases are disregarded. (10-1-98)T

02. RSDI Increase Disregarded for Disabled Adult Child. If the participant became ineligible because his disabled child benefit increased on or after July 1, 1987, the increase and any later increases are disregarded. (10-1-98)T

807. PARTICIPANT RECEIVING EARLY WIDOW'S OR WIDOWER'S SOCIAL SECURITY.
A participant is eligible for Medicaid if he is entitled to an early widow's or widower's Social Security benefits that makes him ineligible for SSI or AABD cash. The participant must have been at least age sixty (60) but not yet age sixty-five (65) when he became eligible for early widow's or widower's Social Security benefits. The participant must have received SSI or AABD cash before age sixty (60). The participant is considered an SSI recipient for Medicaid. (10-1-98)T

808. EARLY WIDOWS AND WIDOWERS BEGINNING JANUARY 1, 1991.
A participant who meets the conditions in Subsections 808.01 through 808.06 is considered an SSI recipient for Medicaid. (10-1-98)T

01. Age. The participant, age fifty (50) to age sixty four and one-half (64-1/2), began receiving early widows or widowers Social Security benefits. (10-1-98)T

02. Lost SSI or AABD. The participant lost SSI or AABD cash because he began receiving early widows or widowers Social Security benefits. (10-1-98)T

03. Received SSI or AABD. The participant received SSI or AABD cash in the month, before the month, he became ineligible because he began receiving early widows or widowers Social Security benefits.

(10-1-98)T

04. Widows or Widowers Benefits. The participant would still be eligible for SSI or AABD cash if his Social Security early widows or widowers benefits were not counted as income. (10-1-98)T

05. No "Part A" Insurance. The participant is not entitled to Medicare Part A hospital insurance. (10-1-98)T

06. Applied On or After January 1, 1991. The participant's Medicaid application was filed, or pending, on or after January 1, 1991. (10-1-98)T

809. CERTAIN DISABLED WIDOWS AND WIDOWERS THROUGH JUNE 30, 1988.
A participant who meets the conditions in Subsections 809.01 through 809.04 is considered an SSI recipient for Medicaid. (10-1-98)T

01. Age. The participant was age sixty (60) or older when his disabled widows and widowers benefits began. (10-1-98)T

02. Lost SSI. The participant is ineligible for SSI because of an increase in SSA disability benefits starting January, 1984. (10-1-98)T

03. Continuously Entitled. The participant is continuously entitled to Social Security benefits for disabled widows and widowers starting January, 1984 or earlier. (10-1-98)T

04. Applied Before July 1, 1988. The participant applied for Medicaid before July 1, 1988. (10-1-98)T

810. QUALIFIED MEDICARE BENEFICIARY (QMB).
A person meeting all requirements in Subsections 672.01 through 672.06 is eligible for QMB. QMB Medicaid pays Medicare premiums, coinsurance, and deductibles. (10-1-98)T

01. Medicare Part A. The participant must be entitled to hospital insurance under Part A of Medicare at the time of his application. (10-1-98)T

02. Nonfinancial Requirements. The participant must meet the Medicaid residence, citizenship, support cooperation, and SSN requirements. (10-1-98)T

03. Income. Monthly income must not exceed one hundred percent (100%) of the official poverty line defined by the Federal Office of Management and Budget (OMB). The single person income limit is the poverty line for a family of one (1) person. The couple income limit is the poverty line for a family of two (2) persons. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual Federal poverty line revision is published. AABD cash is not counted as income. (10-1-98)T

04. Dependent Income. Income of the dependent child, parent, or sibling is not counted. (10-1-98)T

05. QMB Dependent Family Member Disregard. A dependent family member is a minor child, adult child meeting SSA disability criteria, parent or sibling of the participant or spouse living with the participant. The family member is or could be claimed on the Federal tax return of the participant or spouse. A participant with a dependent family member has an income disregard based on family size. The spouse is included in family size, whether or not the spouse is also participant. The disregard is based on the official poverty line income as defined by the OMB. The disregard is the difference between the poverty line for one (1) person, or two (2) persons if the participant has a spouse, and the poverty line for the family size including the participant, spouse, and dependent. (10-1-98)T

06. Resource Limit. The resource limit for a single participant is four thousand dollars ($4,000). The resource limit for a couple is six thousand dollars ($6,000). (10-1-98)T

07. Effective Dates. The effective date of QMB coverage is no earlier than the first day of the month

after the approval month. A QMB participant is not entitled to backdated Medicaid. (10-1-98)T

811. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).
A person meeting all requirements in Subsections 811.01 through 811.07 is eligible for SLMB. Medicaid pays all or part of the Medicare Part B premiums for a SLMB, depending on the participant's SLMB group. (10-1-98)T

01. Other Medicaid. The SLMB I may be eligible for other Medicaid. The SLMB II and SLMB III cannot be eligible for any other type of Medicaid. (10-1-98)T

02. Medicare Part A. The SLMB must be entitled to hospital insurance under Part A of Medicare at the time of his application. (10-1-98)T

03. Nonfinancial Requirements. The SLMB must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation, and SSN. (10-1-98)T

04. Income. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual Federal poverty line revision is published. The monthly income limit depends on the SLMB group. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit for SLMB Group I is up to one hundred twenty percent (120%) of the Federal poverty line. Monthly income for SLMB Group II is at least one hundred and twenty percent (120%) and not more than one hundred thirty five percent (135%) of the Federal poverty line. The monthly income limit for SLMB Group III is at least one hundred thirty five percent (135%) and not more than one hundred seventy five percent (175%) of the Federal poverty line. (10-1-98)T

05. Resource Limit. The resource limit for a single person is four thousand dollars ($4,000). The resource limit for a couple is six thousand dollars ($6,000). (10-1-98)T

06. Coverage Limits. Medicaid pays the Medicare Part B premium for SLMB Group I. There is no annual limit on participants served. Medicaid pays the Medicare Part B premium for SLMB Group II. There is an annual limit on participants served, based on availability of Federal funds. New applications are denied when the annual limit is reached. Medicaid pays part of the Medicare Part B premium for SLMB Group III. The Medicaid payment is the increase in the Part B premium described in Section 4732 of Public Law 105-33. New applications are denied when the annual limit is reached. (10-1-98)T

07. Effective Dates. SLMB coverage begins on the first day of the application month. SLMB coverage may be backdated up to three (3) calendar months before the application month. (01-01-98)

812. QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI).
A person meeting all requirements in Subsections 812.01 through 812.05 is eligible for QDWI. A QDWI is eligible only for Medicaid payment of his Medicare Part A premium. (10-1-98)T

01. Age and Disability. The participant must be a disabled worker under age sixty-five (65). (10-1-98)T

02. Nonfinancial Requirements. The participant must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation and SSN. (10-1-98)T

03. Section 1818A Medicare. SSA determined the participant meets the conditions of Section 1818A of the Social Security Act. (10-1-98)T

04. Income. Monthly income must not exceed two hundred percent (200%) of the one (1) person official poverty line defined by the OMB. (10-1-98)T

05. Resources. The resource limit is four thousand dollars ($4,000). (10-1-98)T

813. SPONSORED LEGAL NON-CITIZEN.
All income and resources of a legal non-citizen's sponsor are deemed for Medicaid eligibility if the sponsor has signed an I-864 affidavit of support. (10-1-98)T

814. CHILD SUBJECT TO DEEMING.
Income and resources of a child's stepparent are not deemed to the child in determining his Medicaid eligibility. (10-1-98)T

815. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A person denied SSI or AABD cash because of the prohibition against payment to fugitive felons and probation and parole violators is not disqualified from Medicaid. (10-1-98)T

816. -- 830. (RESERVED).

831. ASSET TRANSFER FOR LESS THAN FAIR MARKET VALUE.
Starting August 11, 1993, the participant is subject to a penalty if he or his spouse transfers either spouse's income or resources for less than fair market value. Transfer includes reducing or eliminating the participant's ownership or control of the asset. The asset transfer penalty applies to Medicaid services received October 1, 1993 and later. Excluded resources, other than the home and associated property, are not subject to the asset transfer penalty. The asset transfer penalty applies to a Medicaid participant in long-term care or HCBS. A participant in long-term care is a patient in a nursing facility or a patient in a medical institution, requiring and receiving the level of care provided in a nursing facility. (10-1-98)T

832. MEDICAID PENALTY FOR ASSET TRANSFERS.
The asset transfer penalty is restricted Medicaid coverage. (10-1-98)T

01. Restricted Coverage. Restricted coverage means Medicaid will not participate in the cost of nursing facility services. Medicaid will not participate in a level of care in a medical institution equal to nursing facility services. The penalty for a person receiving PCS or community services under the HCBS waiver is ineligibility. (10-1-98)T

02. Notice and Exemption. The participant must be notified, in writing, at least ten (10) days before an asset transfer penalty is imposed. (10-1-98)T

833. ASSET TRANSFER LOOK- BACK.
The asset transfer penalty applies to transfers in a thirty-six (36) month look-back period. The look-back period is sixty (60) months for transfers to or from a trust. (10-1-98)T

01. Look-Back for a Person Entitled to Medicaid. The look-back period begins the month long-term care or HCBS starts for a person entitled to Medicaid. A person "entitled to Medicaid" is receiving or applying for Medicaid when long-term care or HCBS starts. The person would be eligible for the month of application or any of the three (3) calendar months before it, if not for the asset transfer penalty. (10-1-98)T

02. Look-Back for a Person Not Entitled to Medicaid. The look-back period begins the month before the application month for a person not entitled to Medicaid when long-term care starts. (10-1-98)T

834. PERIOD OF RESTRICTED COVERAGE FOR ASSET TRANSFERS.
The period of restricted coverage is the number of months computed by dividing the unpaid asset value by the statewide average cost of nursing facility services to a private patient of nursing facility services or HCBS. The cost is computed for the time of the participant's most recent request for Medicaid. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and spouse. (10-1-98)T

835. CALCULATING THE PENALTY PERIOD.
If the amount transferred is less than the cost of one (1) month's care, there is no penalty. The penalty period begins running the month the transfer took place. The month the transfer took place is counted as one (1) of the penalty months. Restricted coverage continues until the participant or spouse gets all the assets back, gets adequate consideration for all of the assets, or the period of restricted coverage ends. The penalty continues whether or not the participant is in long-term care. (10-1-98)T

01. Single Penalty Period. A period of restricted coverage ends the last day of the last full month of the penalty period. A partial month at the end of a single penalty period is dropped. (10-1-98)T

02. Consecutive Penalty Periods. Each partial month before the end of consecutive penalty periods is a penalty month. A partial month at the end of consecutive penalty periods is dropped. (10-1-98)T

836. MULTIPLE PENALTY PERIODS APPLIED CONSECUTIVELY.
A penalty period is computed for each transfer. One penalty period must expire before the next begins. (10-1-98)T

837. LIFE ESTATES AND ANNUITIES AS ASSET TRANSFERS.
Conditions for determining if a life estate or an annuity are an asset transfer for less than fair market value are listed in Subsections 837.01 through 837.05. (10-1-98)T

01. Life Estate. A life estate worth less than the value of the transferred real property is subject to the asset transfer penalty. To compute the value of the life estate, multiply the fair market value of the real property at the time of transfer by the remainder factor for the participant's age at the time of transfer. The remainder factor for the participant's age is listed in Table 837.01.

TABLE 837.01 - LIFE ESTATE REMAINDER TABLE										
AGE	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**
0	.02812		1	.01012		2	.00983		3	.00922
4	.01019		5	.01062		6	.01116		7	.01178
8	.01252		9	.01337		10	.01435		11	.01547
12	.01671		13	.01802		14	.01934		15	.02063
16	.02185		17	.02300		18	.02410		19	.02520
20	.02635		21	.02755		22	.02880		23	.03014
24	.03159		25	.03322		26	.03505		27	.03710
28	.03938		29	.04187		30	.04457		31	.04746
32	.05.058		33	.05.392		34	.05.750		35	.06132
36	.06540		37	.06974		38	.07433		39	.07917
40	.08429		41	.08970		42	.09543		43	.10145
44	.10779		45	.11442		46	.12137		47	.12863
48	.13626		49	.14422		50	.15257		51	.16126
52	.17031		53	.17972		54	.18946		55	.19954
56	.20994		57	.22069		58	.23178		59	.24325
60	.25509		61	.26733		62	.27998		63	.29304
64	.30648		65	.32030		66	.33449		67	.34902
68	.36390		69	.37914		70	.39478		71	.41086
72	.42739		73	.44429		74	.46138		75	.47851
76	.49559		77	.51258		78	.52951		79	.54643
80	.56341		81	.58033		82	.59705		83	.61358

TABLE 837.01 - LIFE ESTATE REMAINDER TABLE										
AGE	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**		**AGE**	**LIFE ESTATE REMAINDER**
84	.63002		85	.64641		86	.66236		87	.67738
88	.69141		89	.70474		90	.71779		91	.73045
92	.74229		93	.75308		94	.76272		95	.77113
96	.77819		97	.78450		98	.79000		99	.79514
100	.80025		101	.80468		102	.80946		103	.81563
104	.82144		105	.83038		106	.84512		107	.86591
108	.89932		109	.95455						

(10-1-98)T

02. Irrevocable Annuity. An irrevocable annuity is an asset transfer if it does not provide fair market value. To provide fair market value, an irrevocable annuity must meet life expectancy and annual interest tests listed in Subsections 837.03 and 837.04. The value for calculating the asset transfer penalty is the difference between the actual rate produced by the annuity and five percent (5%) per year. The sixty (60) month look-back applies. (10-1-98)T

03. Irrevocable Annuity Life Expectancy Test. The participant's life expectancy must equal or exceed the term of the annuity. Using Table 837.03 divide the face value of the annuity by the participant's life expectancy at the purchase time. The annuity meets the life expectancy test if the result equals the term of the annuity, or more.

TABLE 837.03 - LIFE EXPECTANCY TABLE - FEMALES										
AGE	**LIFE EXPECTANCY**		**AGE**	**LIFE EXPECTANCY**		**AGE**	**LIFE EXPECTANCY**		**AGE**	**LIFE EXPECTANCY**
0	78.79		1	78.42		2	77.48		3	76.51
4	75.54		5	74.56		6	73.57		7	72.59
8	71.60		9	70.61		10	69.82		11	68.63
12	67.64		13	66.65		14	65.67		15	64.68
16	63.71		17	62.74		18	61.77		19	60.80
20	59.63		21	58.86		22	57.59		23	56.92
24	55.95		25	54.98		26	54.02		27	53.05
28	52.08		29	51.12		30	50.15		31	49.19
32	48.23		33	47.27		34	46.31		35	45.35
36	44.40		37	43.45		38	42.50		39	41.55
40	40.61		41	39.66		42	38.72		43	37.78
44	36.85		45	35.92		46	35.00		47	34.08
48	33.17		49	32.27		50	31.37		51	30.48
52	29.60		53	28.72		54	27.86		55	27.00

TABLE 837.03 - LIFE EXPECTANCY TABLE - FEMALES

AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY
56	26.15		57	25.31		58	24.48		59	23.67
60	22.86		61	22.06		62	21.27		63	20.49
64	19.72		65	18.96		66	18.21		67	17.48
68	16.76		69	16.04		70	15.35		71	14.66
72	13.99		73	13.33		74	12.68		75	12.05
76	11.43		77	10.83		78	10.24		79	9.67
80	9.11		81	8.58		82	8.06		83	7.56
84	7.08		85	6.63		86	6.20		87	5.79
88	5.41		89	5.05		90	4.71		91	4.40
92	4.11		93	3.84		94	3.59		95	3.36
96	3.16		97	2.97		98	2.80		99	2.64
100	2.48		101	2.34		102	2.20		103	2.06
104	1.93		105	1.81		106	1.69		107	1.58
108	1.48		109	1.38		110	1.28		111	1.19
112	1.10		113	1.02		114	0.96		115	0.89
116	0.83		117	0.77		118	0.71		119	0.66

(10-1-98)T

TABLE 837.03 - LIFE EXPECTANCY TABLE - MALES

AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY
0	71.80		1	71.53		2	70.58		3	69.62
4	68.65		5	67.67		6	66.69		7	65.71
8	64.73		9	63.74		10	62.75		11	61.76
12	60.78		13	59.79		14	58.62		15	57.85
16	56.91		17	55.97		18	55.05		19	54.13
20	53.21		21	52.29		22	51.38		23	50.46
24	49.55		25	48.63		26	47.72		27	46.80
28	45.88		29	44.97		30	44.06		31	43.15
32	42.24		33	41.33		34	40.23		35	39.52
36	38.62		37	37.63		38	36.83		39	35.94
40	35.05		41	34.15		42	33.26		43	32.37

TABLE 837.03 - LIFE EXPECTANCY TABLE - MALES										
AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY		AGE	LIFE EXPECTANCY
44	31.49		45	30.61		46	29.74		47	28.88
48	28.02		49	27.17		50	26.32		51	25.48
52	24.65		53	23.82		54	23.01		55	22.41
56	21.43		57	20.66		58	19.90		59	19.15
60	18.42		61	17.70		62	16.99		63	16.30
64	15.62		65	14.96		66	14.32		67	13.70
68	13.09		69	12.50		70	11.92		71	11.35
72	10.80		73	10.27		74	9.27		75	9.24
76	8.76		77	8.29		78	7.83		79	7.40
80	6.98		81	6.59		82	6.21		83	5.85
84	5.51		85	5.19		86	4.89		87	4.61
88	4.34		89	4.09		90	3.86		91	3.64
92	3.43		93	3.24		94	3.06		95	2.90
96	2.74		97	2.60		98	2.47		99	2.34
100	2.22		101	2.11		102	1.99		103	1.89
104	1.78		105	1.68		106	1.59		107	1.50
108	1.41		109	1.33		110	1.25		111	1.17
112	1.10		113	1.02		114	0.96		115	0.89
116	0.83		117	0.77		118	0.71		119	0.66

(10-1-98)T

04. Irrevocable Annuity Annual Interest Test. The annuity must produce annual interest of at least five percent (5%). A variable rate annuity meets the interest rate test if the average yearly rate for the most recent five (5) year period is five percent (5%) or more. The participant can rebut the five percent (5%) interest test. He must show single premium annuities are not offered by insurers now, or when the annuity was purchased. Insurers must be rated exceptional or superior by an insurance rating firm such as A.M. Best Co. (10-1-98)T

05. Revocable Annuity. The surrender amount of a revocable annuity is a resource. Early surrender of a revocable annuity is not an asset transfer for less than fair market value. (10-1-98)T

838. TRUSTS AS ASSET TRANSFERS.

A trust established wholly or partly from the participant's assets is an asset transfer. Assets transferred to a trust on or after August 11, 1993 are subject to the asset transfer penalty, regardless of when the trust was established. If the trust includes assets of another person, the asset transfer penalty applies to the participant's share of the trust. (10-1-98)T

839. TRANSFER OF JOINTLY-OWNED ASSET.

Transfer of an asset owned jointly by the participant and another person is considered a transfer by the participant. The participant's share of the asset is used to compute the penalty. If the participant and his spouse are joint owners of the transferred asset, the couple's combined ownership is used to compute the penalty. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and

spouse. (10-1-98)T

840. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.
A participant or spouse who meets a condition in Subsections 840.01 through 840.15 is not subject to the asset transfer penalty. (10-1-98)T

01. Home to Spouse. The asset transferred was a home. Title to the home was transferred to the spouse. (10-1-98)T

02. Home to Minor Child or Disabled Adult Child. The asset transferred was a home. Title to the home was transferred to the child of the participant or spouse. The child must be under age twenty-one (21) or blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

03. Home to Brother or Sister. The asset transferred was a home. Title to the home was transferred to a brother or sister of the participant or spouse. The brother or sister must have an equity interest in the transferred home. The brother or sister must reside in that home for at least one (1) year immediately before the month the participant starts long-term care. (10-1-98)T

04. Home to Adult Child. The asset transferred was a home. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must reside in that home for at least two (2) years immediately before the month the participant started long-term care. The son or daughter must have provided care to the participant which permitted him to live at home rather than enter long-term care. (10-1-98)T

05. Benefit of Spouse. The assets were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (10-1-98)T

06. Transfer from Spouse. The assets were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (10-1-98)T

07. Transfer to Child. The assets were transferred to the participant's child, or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (10-1-98)T

08. Transfer to Trust for Person Under Sixty-Five (65). The assets were transferred to a trust for the sole benefit of a person under age sixty-five (65). "Sole benefit" means any remainder in the trust after the person's death must go to his estate, not to another person. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

09. Intent to Get Fair Market Value. The participant or spouse proves he intended to dispose of the assets at fair market value or for other adequate consideration. (10-1-98)T

10. Assets Returned. All assets transferred for less than fair market value have been returned to the participant. (10-1-98)T

11. No Medicaid Purpose. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid. (10-1-98)T

12. Undue Hardship. Denying eligibility would cause an undue hardship. Undue hardship exists if any of the conditions in Subsections 690.12.a. through 690.12.c. apply. (10-1-98)T

a. The participant proves he is not able to pay for his nursing facility services or his HCBS services any other way. He assigns his rights to recover the asset to the state of Idaho. (10-1-98)T

b. The participant proves he did not knowingly transfer the asset. He assigns his rights to recover the asset to the state of Idaho. (10-1-98)T

c. The HCBS participant proves he would be deprived of food, clothing or shelter if all income transferred to the trust is used only for HCBS costs. He assigns his rights to recover the asset to the state of Idaho. If the participant proves undue hardship, the income paid to meet his needs for food, clothing or shelter is exempt from the asset transfer penalty. It does not invalidate the trust. It is not income for eligibility. (10-1-98)T

13. Exception to Fair Market Value. The amount received is adequate, even if not fair market value. This exception must meet one (1) of the conditions in Subsections 690.13.a. through 690.13.c. (10-1-98)T

a. A forced sale was done under reasonable circumstances. (10-1-98)T

b. Little or no market demand exists for the type of asset transferred. (10-1-98)T

c. The asset was transferred to settle a legal debt approximately equal to the fair market value of the transferred asset. (10-1-98)T

14. No Benefit to Participant. The participant received no benefit from the asset. This exception must meet one (1) of the conditions in Subsections 690.14.a. through 690.14.b. (10-1-98)T

a. The participant or spouse held title to the property only as a trustee for another person. The participant or spouse had no beneficial interest in the property. (10-1-98)T

b. The transfer was done to clear title to property. The participant or spouse had no beneficial interest in the property. (10-1-98)T

15. Fraud Victim. The asset was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the assets or property, or its equivalent in damages. The participant must assign recovery rights to the state of Idaho. (10-1-98)T

841. -- 870. (RESERVED).

871. TREATMENT OF TRUSTS.

These trust treatment rules apply to all Medicaid participants. These rules apply to trusts established with the participant's assets on August 11, 1993 or later, and to trusts funded August 11, 1993 or later. Assets transferred to a trust are subject to the asset transfer penalty. Section 871 does not apply to a trust established by a will. (10-1-98)T

01. Revocable Trust. Revocable trusts are treated as listed in Subsections 871.01.a. through 871.01.d. A revocable burial trust is not a trust for the purposes of Subsection 871.01. (10-1-98)T

a. The body (corpus) of a revocable trust is a resource. (10-1-98)T

b. Payments from the trust to or for the participant are income. (10-1-98)T

c. Any other payments from the trust are an asset transfer, triggering an asset transfer penalty period. (10-1-98)T

d. The home and adjoining property loses its exclusion when transferred to a revocable trust, unless the participant or spouse is the sole beneficiary of the trust. The home is excluded again if removed from the trust. The exclusion restarts the next month. (10-1-98)T

02. Irrevocable Trust. Irrevocable trusts are treated as listed in Subsections 871.02.a. through 871.02.g. (10-1-98)T

a. The part of the body of an irrevocable trust, from which corpus or income payments could be made to or for the participant, is a resource. (10-1-98)T

b. Payments made to or for the participant are income. (10-1-98)T

c. Payments from the trust for any other reason are asset transfers, triggering the asset transfer penalty. (10-1-98)T

d. Any part of the trust from which payment cannot be made to, or for the benefit of, the participant under any circumstances, is an asset transfer. (10-1-98)T

e. The effective date of the transfer is the date the trust was established, or the date payments to the participant were foreclosed. (10-1-98)T

f. The value of the trust, for calculating the transfer penalty, includes any payments made from that portion of the trust after the date the trust was established or payments were foreclosed. (10-1-98)T

g. An irrevocable burial trust is not subject to treatment under Subsection 871.02, unless funds in the trust can be paid for a purpose other than the participant's funeral and related expenses. The trust can provide that funds not needed for the participant's funeral expenses are available to reimburse Medicaid, or to go to the participant's estate. (10-1-98)T

872. EXEMPT TRUSTS.

A trust, created or funded on or after August 11, 1993, is exempt from trust treatment and not subject to the asset transfer penalty if it meets a condition in Subsections 872.01 through 872.03. (10-1-98)T

01. Trust for Disabled Person. To be exempt, a trust for a disabled person must meet all the conditions in Subsections 872.01.a. through 872.01.f. (10-1-98)T

a. The trust contains the assets of a person under age sixty-five (65). (10-1-98)T

b. The person is blind or totally disabled under the Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

c. The trust is established for the person's benefit by his parent, grandparent, legal guardian or a court. (10-1-98)T

d. The trust is irrevocable. (10-1-98)T

e. The trust is exempt until the person reaches age sixty-five (65) if the trust is not added to or augmented. After the person reaches age sixty-five (65), additions or augmentations are not exempt from trust treatment. (10-1-98)T

f. Upon the person's death, the amount not distributed by the trust must be paid for Medicaid paid in the person's behalf by the state of Idaho. (10-1-98)T

02. Income Trust. To be exempt, an income trust must meet all the conditions in Subsections 702.02.a. through 702.01.g. (10-1-98)T

a. The trust is established for the benefit of a person eligible for Medicaid in long-term care, or eligible for HCBS except for excess income. (10-1-98)T

b. All the money in the trust comes from the person's pensions, Social Security and other income, including income earned by the trust. Money paid into the trust is not income for Medicaid eligibility the month received. Money paid into the trust is income for patient liability or client participation. (10-1-98)T

c. The trust is irrevocable. The trust document may include a clause allowing the trust to be revoked if the participant leaves the nursing facility or HCBS for a reason other than death, and is no longer eligible for Medicaid because of excess income. (10-1-98)T

d. The trust only provides payments for patient liability or client participation, unless the payment meets the undue hardship penalty exception. (10-1-98)T

e. Income transferred to the trust and not used to compute patient liability or client participation, is subject to the asset transfer penalty, unless the payment meets the undue hardship penalty exception. (10-1-98)T

f. The trust may be dissolved without penalty when the participant is no longer a long-term care or HCBS Medicaid participant for a reason other than death. (10-1-98)T

g. Upon the person's death, the amount not distributed by the trust must be paid for Medicaid paid in the person's behalf by the state of Idaho. (10-1-98)T

03. Trust Managed by Non-profit Association for Disabled Person. To be exempt, a trust managed by non-profit association for a disabled person must meet all the conditions in Subsections 872.03.a. through 872.03.e. (10-1-98)T

a. The trust is established and managed by a nonprofit association. The nonprofit association must not be the participant, his parent or his grandparent. (10-1-98)T

b. The trust contains the assets of a disabled person. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

c. Accounts in the trust are established only for the benefit of disabled persons. An account can be established by the disabled person, his parent, grandparent, legal guardian, or a court. The trust can pool accounts for investment and management purposes. A separate account in the pool must be maintained for the participant. (10-1-98)T

d. The trust is irrevocable. (10-1-98)T

e. Upon the person's death, the amount not distributed by the trust must be paid for Medicaid paid in the person's behalf by the state of Idaho. (10-1-98)T

873. PAYMENTS FROM AN EXEMPT TRUST FOR DISABLED PERSON OR POOLED TRUST.
Cash payments from an exempt trust for a disabled person or a pooled trust must be treated as described in Subsections 873.01 through 873.04. (10-1-98)T

01. Payments from Exempt Trust. Cash payments from an exempt trust for a disabled person are income in the month received. (10-1-98)T

02. Payments from Pooled Trust. Cash payments from a pooled trust made directly to the participant are income in the month received. (10-1-98)T

03. Payments for Food, Clothing or Shelter. Payments for the participant's food, clothing or shelter are income in the month paid. The payments for food, clothing or shelter are valued at one-third (1/3) of the AABD budgeted needs for the participant's living arrangement. (10-1-98)T

04. Payments Not Made to Participant. Payments from the exempt trust not made to, or on behalf of, the participant are an asset transfer. (10-1-98)T

874. -- 914. (RESERVED).

915. MEDICAID REDETERMINATION.
Medicaid eligibility is redetermined each year. The redetermination for AABD cash is the Medicaid redetermination for participants receiving both programs. (10-1-98)T

916. -- 995. (RESERVED).

996. CONFIDENTIALITY.
Information received by the Department, from participants, is subject to the provisions of Idaho Department of Health

and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (10-1-98)T

997. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE

DOCKET NO. 16-0306-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 and 56-203, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Refugee Assistance has been provided by the Department of Health and Welfare. Beginning October 1, 1998, short-term cash assistance and services to refugees will be privatized. The private provider will deal directly with the Office of Refugee Resettlement to fund these services and to define policies under which services are provided. The Department will continue to administer Refugee Medical Assistance.

IDAPA 16, Title 03, Chapter 06 is being amended to delete references to eligibility requirements for Refugee cash assistance. Sections which define eligibility for Refugee Medical Assistance are being retained.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell, Bureau Chief at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0306-9801

000. LEGAL AUTHORITY.
This program is authorized by 45 CFR Part 400, by Section 412E, Title IV, Pub. L. 96-212 also known as the Refugee Act of 1980, 94 Stat. 114 (8 USC 1521) and Action Transmittal ORR-AT-80-6, and by provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to assist needy people of the State with ~~financial~~ medical assistance and to enter into contracts with the federal government to provide assistance. ~~(6-1-87)~~(10-1-98)T

001. TITLE AND SCOPE.

01. Title. ~~and are to~~ These rules shall be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.06 "Rules Governing Refugee ~~Resettlement~~ Medical Assistance". ~~(6-1-81)~~(10-1-98)T

02. Scope. The rules contained in his Chapter govern the administration of the refugee medical assistance program in the state of Idaho. (10-1-98)T

002. DEFINITION OF TERMS AND ABBREVIATIONS.
For the purposes of the rules contained in IDAPA 16.03.06, the following terms and abbreviations are used, as defined herein: (6-1-81)

01. AFDC. As used in this chapter, Aid to Families with Dependent Children (AFDC) will refer to the program in effect on June 30, 1997. (7-1-98)

02. Caretaker. A person related by blood or marriage who holds legal responsibility for the care and support of a minor child or otherwise dependent individual and who is needed in the home to care for such dependent. (5-22-78)

03. Department. The Department of Health and Welfare. (6-1-81)

~~04. DOE. Department of Employment. (5-22-78)~~

0~~5~~4. Eligible Amerasian. A citizen of Vietnam born between January 1, 1962, and January 1, 1976, who has one (1) American parent. (7-1-88)

~~06. Employability Plan. An individualized written plan prepared by the Idaho Refugee Services Program or DOE in areas not serviced by the Idaho Refugee Services Program for a refugee registered for employment services that sets forth a program of services intended to result in the earliest possible employment of the refugee. (7-1-89)~~

0~~7~~5. Entrant. A person from Cuba or Haiti who has been granted special immigration status by INS. (4-1-82)

~~08. Full-time Student. A student enrolled in an institution of higher education (other than a correspondence school) who is carrying a full-time academic workload as determined by the school under standards applicable to all students enrolled in that particular program. (5-1-84)~~

0~~9~~6. HHS. Department of Health and Human Services. (6-1-81)

~~1~~0~~7~~. INA. Immigration and Naturalization Act. (6-1-81)

~~11~~08. INS. United States Immigration and Naturalization Service. (5-1-77)

~~12~~09. IRSP. Idaho Refugee Service Program. (7-1-89)

1~~3~~0. I-94. A white three by five (3x5) inch alien identification card issued to refugees prior to their release to a sponsor. This card gives the refugee's name, U.S. address, and other identifying data. The refugee status will be printed in the lower right hand corner. If a refugee does not have this card, he should be referred to INS to

obtain one. The dependent of a repatriated U.S. citizen may also have an I-94 card. (6-1-81)

~~14. Institution of Higher Education. An educational institution which provides: (5-1-84)~~

~~a. An educational program for which it awards an associate, baccalaureate, graduate or professional degree; or (5-1-84)~~

~~b. At least a two (2) year program which is acceptable for full credit toward a baccalaureate degree; or (5-1-84)~~

~~c. At least a one (1) year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; or (5-1-84)~~

~~d. At least a six (6) month program of training to prepare students for gainful employment in a recognized occupation. (5-1-84)~~

1~~5~~1. Refugee. An alien who: (6-1-81)

a. Because of persecution or fear of persecution on account of race, religion, or political opinion fled from his homeland; (6-1-81)

b. Cannot return there because of fear of persecution on account of race, religion or political opinion. (6-1-81)

1~~6~~2. Repatriate. Excluded from the definition of "refugee" are those persons who are U.S. citizens returning to the United States from a foreign country, or dependents of repatriated U.S. citizens. (5-1-77)

1~~7~~3. TAFI. Temporary Assistance for Families in Idaho. Program which replaced the AFDC program. Provides temporary cash assistance for Idaho families. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

100. IDENTIFICATION OF REFUGEES.

01. Refugee Immigration Status. A person has refugee status for purposes of assistance under the Refugee ~~Resettlement~~ Medical Assistance Program if he is one (1) of the following: ~~(7-1-89)~~(10-1-98)T

a. A person from Cambodia, Laos, or Vietnam who has a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the Immigration and Naturalization Act (INA). The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (10-1-82)

b. A person from Cuba who entered the U.S. on or after October 1, 1978 and who has an I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA. The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (10-1-82)

c. A person from any country who has Form I-94 indicating that the person has been: (6-1-81)

i. Paroled under Section 212(d)(5) of the INA as a refugee or asylee; or (6-1-81)

ii. Admitted as a conditional entrant under Section 203(a)(7) of the INA; or (6-1-81)

iii. Admitted as a refugee under Section 207 of INA; or (6-1-81)

iv. Granted asylum under Section 208 of INA; or (6-1-81)

d. A person who entered the United States and has Form I-151 or I-551 showing that his status has been subsequently adjusted from one (1) of the statuses in Subsection 100.02.c. to that of permanent resident alien provided he can document his previous status. (12-31-91)

e. A child born in the United States to eligible refugee parent(s) with whom he lives. (10-1-82)

f. An Amerasian together with close family members who entered the United States beginning March 20, 1988, in immigrant status through the Orderly Departure Program. Close family members who are eligible refugees under this provision are limited to: (7-1-88)

i. The Amerasian's spouse and child(ren); (7-1-88)

ii. The mother of an unmarried Amerasian and such mother's spouse and child(ren); and (7-1-88)

iii. A person who has acted as the parent of an unmarried Amerasian and that person's spouse and child(ren). (7-1-88)

02. Other Factors in Determining Eligibility for the Refugee ~~Resettlement~~ Medical Assistance Program. ~~(6-1-81)~~(10-1-98)T

a. An applicant for asylum is not eligible. This is a person who has applied for but has not been granted asylum. (6-1-81)

b. A person who entered the U.S. as a resident alien (i.e., immigrant) is not eligible. (10-1-82)

c. A Form I-94 which shows a person has been paroled into the U.S. under Section 212(d)(5) of the INA must clearly indicate that the person has been paroled as a "Refugee" or "Asylee" if such form was issued: (6-1-81)

i. To a person from Cambodia, Laos, or Vietnam on or after June 1, 1980; or (6-1-81)

ii. To a person from Cuba on or after April 21, 1980; or (6-1-81)

iii. To a person from any other country at any time. (6-1-81)

d. A person whose status is Cuban/Haitian Entrant must have his eligibility for benefits under the Refugee ~~Resettlement~~ Medical Assistance Program determined pursuant to Sections 125 and 135. ~~(12-31-91)~~(10-1-98)T

e. Repatriated U.S. citizens and their dependents arriving in the U.S. are not eligible for benefits under the Refugee ~~Resettlement~~ Medical Assistance Program but may be eligible for benefits under the Repatriate Program. Following the first ninety (90) days after their arrival in the U.S., those alien dependents of U.S. citizens who qualify as refugees would be eligible to apply under the Refugee Medical Assistance Program. ~~(6-1-81)~~(10-1-98)T

f. An Amerasian or close family member admitted as an immigrant but eligible for refugee ~~cash/~~ medical assistance as though he were a refugee must have either of the following documents verifying his status: ~~(7-1-88)~~(10-1-98)T

i. A temporary identification document, Form I-94 stamped "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (expiration date). Employment authorized." The back of Form I-94 contains the stamped word "Admitted" and is coded AM1, AM2, or AM3; or (7-1-88)

ii. A permanent identification document, Form I-551 coded AM6, AM7, or AM8. (7-1-88)

(BREAK IN CONTINUITY OF SECTIONS)

125. IDENTIFICATION OF ENTRANTS.

01. Entrant Immigration Status. A person is an entrant for purposes of the Refugee ~~Resettlement~~ Medical Assistance Program if he is one (1) of the following: ~~(7-1-89)~~(10-1-98)T

a. A Cuban or Haitian who possesses an INS form I-94 which is stamped "Cuban/Haitian Entrant" (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti. (4-1-82)

b. A Cuban who possesses an I-94 which states that the person is a citizen of Cuba and which contains the initials "OOE". A Temporary Restraining Order makes Exclusion Orders against this person legally unenforceable. If the Temporary Restraining Order is removed in the future, the person will become ineligible. (4-1-82)

c. A Cuban who possesses an I-94 which meets all of the following requirements: (4-1-82)

i. States that the person is a citizen of Cuba; (4-1-82)

ii. States that the person has been "Paroled" after April 20, 1980; and (4-1-82)

iii. Does not contain the words "Outstanding Order of Exclusion". (4-1-82)

d. A Haitian who possesses an I-94 which states that he is a citizen of Haiti who has been either "Paroled" or granted "Voluntary Departure". (4-1-82)

e. A Cuban or Haitian who has an application for asylum pending with INS. (4-1-82)

f. A Cuban or Haitian who is the subject of exclusion or deportation proceedings under the INA, but about whom no decision has been reached. (4-1-82)

g. The persons listed in Subsections 125.01.a. through 125.01.f. are eligible even if the expiration date of their parole or voluntary departure has passed. (12-31-91)

02. Ineligible Entrants. A person is not eligible for assistance under the Refugee ~~Resettlement~~ Medical Assistance Program if he is one (1) of the following: ~~(7-1-89)~~(10-1-98)T

a. A Cuban or Haitian who has a final, nonappealable, and legally enforceable order of deportation or exclusion. (4-1-82)

b. A Cuban whose I-94 contains the words "Outstanding Order of Exclusion". (4-1-82)

c. A Cuban or Haitian who has never been encountered by INS. (4-1-82)

d. A Cuban or Haitian who possesses a regular immigration or nonimmigration visa. (4-1-82)

(BREAK IN CONTINUITY OF SECTIONS)

135. ASSISTANCE TO CUBAN/HAITIAN ENTRANTS.

01. Eligibility ~~and Benefits~~. For purposes of determining the eligibility ~~and benefit amount~~ of Cuban and Haitian entrants no distinction is made between refugee and entrant immigration status. ~~(10-1-84)~~(10-1-98)T

02. Period of Eligibility. The number of months during which an entrant may be eligible for ~~cash and~~ medical assistance under the Cuban/Haitian Entrant Program must be counted starting with the first month in which an individual entrant was first issued documentation by the INS indicating: ~~(4-1-82)~~(10-1-98)T

a. The entrant has been granted parole; or (4-1-82)

b. The entrant is in voluntary departure status; or (4-1-82)

c. The entrant's residence in the United States is known by INS. (4-1-82)

(BREAK IN CONTINUITY OF SECTIONS)

150. SPONSORSHIP.

01. Providing Name of Resettlement Agency. A refugee must provide the name of his resettlement agency as a condition of eligibility for ~~cash and medical assistance~~ under the Refugee ~~Resettlement~~ Medical Assistance Program. ~~(7-1-89)~~(10-1-98)T

02. Resettlement Agency and Sponsor Notification. Whenever a refugee applies for cash or medical assistance for which total or partial reimbursement is provided by the Office of Refugee Resettlement, the Department must promptly notify the resettlement agency (or its local affiliate), which provided for the initial resettlement of the refugee, that the refugee has so applied. (10-1-84)

03. Contact. In determining or redetermining a refugee's eligibility for ~~cash or~~ medical assistance, the Field Office must contact the refugee's sponsor or resettlement agency and obtain sufficient information to make a correct eligibility determination including~~:~~ ~~(10-1-84)~~

~~a.~~ ~~V~~verification of the amount of financial assistance the sponsor or resettlement agency is providing to the refugee~~;~~. ~~and~~ ~~(7-1-89)~~(10-1-98)T

~~b. Whether the refugee has refused an offer of employment or has voluntarily quit a job within thirty (30) consecutive days immediately prior to the date of application without good cause as provided in Subsection 300.01. (12-31-91)~~

~~04. Notification Waiver. When there is an emergency need for financial assistance and the sponsor cannot be reached, the notification requirement may be temporarily waived. (10-1-84)~~

~~**151. -- 199. (RESERVED).**~~

~~**200. REFUGEE CASH ASSISTANCE.**~~

~~01. Time Limitation. Effective October 1, 1991, refugee cash assistance under the Refugee Resettlement Program, also known as refugee financial assistance, will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for refugee cash assistance for a child born in the United States to refugee parents who are not eligible for TAFI, AABD or SSI expires when both of his parents with whom he is living have been in the United States for eight (8) months or when the child has reached eight (8) months of age, whichever occurs first. (7-1-98)~~

~~a. Effective October 1, 1991, the refugee cash assistance eligibility period is reduced to eight (8) months for persons who were not receiving refugee cash assistance as of September 30, 1991. (10-28-93)~~

~~b. Effective November 30, 1991, refugee cash assistance must be terminated for any recipient who, as of that date, has reached or passed the end of the eight (8) month period beginning with the refugee's month of entry into the U.S. (10-28-93)~~

~~02. Categorical Relatedness Waived. The requirements of categorical relatedness are waived. This means that refugees must meet the financial eligibility criteria only. It is not required that adults be disabled, blind, or elderly, or that children in families be deprived of parental support in order to be eligible for refugee cash assistance. (10-1-84)~~

~~03. Assistance Based on AFDC Standards. Cash assistance to all types of refugee cases, regardless of family composition and age will be based on the AFDC need standard. The AFDC need standard must also apply to those refugee cases which would normally be considered AABD-related. The standard for an assistance unit of one (1) in AFDC may be used for single individuals and the AFDC two (2) person standard for husband and wife. (7-1-89)~~

~~04. Consideration of Income and Resources. Income and resources are considered on the same basis as in the AFDC program, except that the Department must not apply an earned income disregard of thirty dollars ($30) plus one-third (1/3) of the remainder of the earnings. (6-1-87)~~

~~05. Availability of Income and Resources. No income or resources which are not in fact available to the refugee including resources remaining in his homeland or the income and resources of sponsors, will be considered in determining eligibility for cash assistance. (7-1-89)~~

~~a. Money paid directly to a refugee by a sponsor or resettlement agency is income in the month received and a resource to the extent retained in subsequent months. (6-23-88)~~

~~b. In-kind services and shelter provided by a sponsor or resettlement agency will not be counted as income. A shelter allowance will not be provided for any in-kind shelter provided. (6-23-88)~~

~~06. Extended Medicaid. An assistance unit which becomes ineligible for refugee cash assistance (RCA) or refugee medical assistance (RMA) because of increased earnings from employment of a member of the unit or which becomes ineligible for RCA or RMA wholly or partly because of collection or an increased collection of child or spousal support, is entitled to an extension, up to four (4) months, of nonspend down refugee medical assistance. Refugee medical assistance must not be extended beyond a refugee's eighth (8) month in the United States. (10-28-93)~~

~~07. Nuclear Family. Each nuclear family of parent(s) and children under eighteen (18) years of age or under nineteen (19) years of age if they are expected to complete a secondary level of school by the month of their nineteenth birthday is a separate assistance unit. (7-1-89)~~

~~08. Extended Family. Within the extended family, each adult child over eighteen (18) years of age, or over nineteen (19) years of age if he is expected to complete a secondary level of school by the month of his nineteenth birthday, and each adult relative (including, but not limited to grandparents, cousins) is a separate assistance unit. (7-1-89)~~

~~09. Minor Children. Minor children related to the caretaker but who have no parent in the household are eligible for AFDC rather than refugee cash assistance. (7-1-89)~~

~~201. -- 299. (RESERVED).~~

~~300. EMPLOYMENT AND TRAINING REQUIREMENTS FOR REFUGEES APPLYING FOR OR RECEIVING REFUGEE CASH ASSISTANCE.~~

~~The employment and training requirements for applicants for and recipients of refugee cash assistance are set forth in Section 300. (7-1-98)~~

~~01. Employable Refugee. An employable refugee is an A/R for refugee cash assistance who is not exempt from registration for employment services. (7-1-89)~~

~~a. The exemption criteria are in Subsection 300.04. (12-31-91)~~

~~b. Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability services, or carrying out job search or acceptance of appropriate offers of employment. (7-1-89)~~

~~02. Requirements. As a condition of eligibility for refugee cash assistance, an employable refugee must: (7-1-89)~~

~~a. Register for employment services and participate in employment services provided by the Idaho Refugee Service Program (IRSP) or by the Department of Employment in areas of the state not serviced by IRSP; (7-1-89)~~

~~b. Carry out job search; (7-1-89)~~

~~c. Go to a job interview which is arranged by the IRSP or by the Department of Employment in areas not served by IRSP; (7-1-89)~~

~~d. Participate in any employability service program which provides job or language training in the area in which the refugee resides and which the IRSP determines is available and appropriate for that refugee; (7-1-89)~~

~~e. Accept an offer of employment and not terminate employment which is determined to be appropriate by the resettlement agency which was responsible for the initial resettlement of the refugee or by the IRSP or by the Department of Employment in areas not served by the IRSP. (7-1-89)~~

~~f. Not be enrolled as a full-time student in an institution of higher education except where his enrollment is approved by the IRSP, or its designee, as part of an individual employability plan. (1-29-92)~~

~~03. Good Cause. Good cause for refusal to register for employment and refusal to participate in employment services exists when those services do not meet the criteria specified in Subsections 300.07. (12-31-91)~~

~~04. Exemption Criteria. An individual is considered employable unless one (1) of the following exemptions applies: (7-1-89)~~

~~a. An individual who is under age sixteen (16); or who is over the age of fifteen (15), is a full-time student in a secondary school or equivalent level of technical or vocational training, and is reasonably expected to complete the curriculum no later than the month of his nineteenth birthday; or who is enrolled full-time in training approved by the Department's Idaho Refugee Service Program as part of an approved employability plan; (5-1-84)~~

~~b. A person who is ill where medical evidence or another sound criterion indicates the illness or injury is serious enough to temporarily prevent entry into employment or training; (7-1-89)~~

~~c. A person who is incapacitated, when determined by a physician or licensed or certified psychologist and verified by the Field Office that a physical or mental impairment, by itself or in conjunction with age, prevents the person from engaging in employment or training; (7-1-89)~~

~~d. A person who is sixty-five (65) or older; (7-1-89)~~

~~e. A person who is caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the Field Office, care in the home on a substantially continuous basis, and no other appropriate member of the household is available; (7-1-89)~~

~~f. A parent or other caretaker of a child under the age of six (6) who is caring for the child; (7-1-89)~~

~~g. A person who is working at least thirty (30) hours a week in unsubsidized employment expected to last a minimum of thirty (30) days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than ten (10) workdays; or (7-1-89)~~

~~h. A person who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would be required or within the next three (3) months. (7-1-89)~~

~~05. Voluntary Registration. A refugee who meets the exemption criteria in Subsection 300.04 may voluntarily register for and participate in employment services. (12-31-91)~~

~~06. Voluntary Quit. As a condition of eligibility for refugee cash assistance, an employable refugee must not, without good cause, within the thirty (30) consecutive calendar days prior to the application for refugee cash assistance have voluntarily quit employment or have refused to accept an offer of employment determined appropriate by the IRSP or by the Department of Employment in areas not served by the IRSP using the appropriateness criteria in Subsection 300.07. (12-31-91)~~

~~07. Criteria for Determining Appropriateness of Employability Services and Employment. The determination of "appropriateness" must be made by the IRSP. (7-1-89)~~

~~a. In making the "appropriateness" determination the IRSP will assure the following criteria are met: (7-1-89)~~

~~i. All assignments must be within the scope of the individual's employability plan. The plan may be modified to reflect changed services or employment conditions; (7-1-89)~~

~~ii. The services or employment must be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health must be based on adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health; (7-1-89)~~

~~iii. The total daily commuting time to and from home to the service or employment site must not normally exceed two (2) hours, including the transporting of a child to and from a child care facility, unless a longer commuting distance or time is generally accepted in the community, in which case, the round trip commuting time must not exceed the generally accepted community standards; (7-1-89)~~

~~iv. When child care is required, the care must meet the standards normally required by the Department in the work and training programs for TAFI recipients; (7-1-98)~~

~~v. The service or work site to which the individual is assigned must not be in violation of applicable federal, state or local health standards; (7-1-89)~~

~~vi. Assignments must not be made which are discriminatory in terms of age, sex, race, creed, color or national origin; (7-1-89)~~

~~vii. Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work if such work meets the other standards of appropriateness contained in this section; (7-1-89)~~

~~viii. The wage must meet or exceed the federal or state minimum wage law, whichever is applicable, or if such laws are not applicable, the wage must not be substantially less favorable than the wage normally paid for similar work in the labor market; (7-1-89)~~

~~ix. The daily hours of work and the weekly hours of work must not exceed those customary to the occupation; (7-1-89)~~

~~x. No individual is required to accept employment if: (7-1-89)~~

~~(1) The position offered is vacant due to a strike, lockout or other bona fide labor dispute; or (7-1-89)~~

~~(2) The individual would be required to work for an employer contrary to the conditions of his existing membership in the union governing that occupation. Employment not governed by the rules of a union in which he~~

~~has membership may, however, be deemed appropriate; and~~ ~~(7-1-89)~~

~~xi. The quality of training must meet local employers' requirements so that the individual will be in a competitive position within the labor market. The training must also be likely to lead to employment which meets the appropriateness criteria.~~ ~~(7-1-89)~~

~~b. If a refugee is a professional in need of professional refresher training and other recertification services in order to qualify to practice his profession in the United States, the training may consist of full-time attendance in a college or a professional training program, provided that such training is:~~ ~~(7-1-89)~~

~~i. Approved as part of the individual's employability plan;~~ ~~(7-1-89)~~

~~ii. Does not exceed one (1) year's duration, including any time enrolled in such program in the United States prior to the individual's application for refugee cash assistance;~~ ~~(7-1-89)~~

~~iii. Is specifically intended to assist the professional in becoming relicensed in his profession; and~~ ~~(7-1-89)~~

~~iv. If completed, can realistically be expected to result in his being relicensed.~~ ~~(7-1-89)~~

~~c. The offer of a job meeting the appropriateness criteria must be accepted without regard to whether it would interrupt a program of services planned or in progress unless:~~ ~~(7-1-89)~~

~~i. The refugee is currently participating in a program in progress of on-the-job training which meets the appropriateness criteria and is being carried out as part of his employability plan; or~~ ~~(7-1-89)~~

~~ii. The refugee is enrolled full-time in a professional recertification program which meets the requirements of Subsection 300.07.b.~~ ~~(12-31-91)~~

~~08. Job Search. As a condition of continued eligibility for refugee cash assistance, an employable recipient must carry out a job search program according to the requirements of his employability plan.~~ ~~(7-1-89)~~

~~a. The refugee must begin job search no later than six (6) months after he entered the United States or at the time he is determined eligible for refugee cash assistance if the refugee has completed at least six (6) months in the United States at the time of such determination.~~ ~~(7-1-89)~~

~~b. The refugee must continue job search for at least eight (8) consecutive weeks.~~ ~~(7-1-89)~~

~~c. The refugee must make at least three (3) employer contacts each week of the eight (8) consecutive weeks.~~ ~~(7-1-89)~~

~~d. The refugee's compliance with job search requirements is determined by IRSP or the Department of Employment in areas not served by the IRSP.~~ ~~(7-1-89)~~

~~09. Sanctions. The following sanctions are to be applied to an individual who has failed or refused to carry out job search or to accept employability services or employment:~~ ~~(7-1-89)~~

~~a. Voluntary Registrant. When a voluntary registrant has failed or refused to participate in appropriate employability services, to carry out job search or to accept an appropriate offer of employment, the IRSP or the Department of Employment in areas not served by the IRSP, may deregister the individual for up to ninety (90) days from the date of determination that such failure or refusal has occurred, but the individual's eligibility or the amount of his refugee cash assistance must not be affected.~~ ~~(7-1-89)~~

~~b. Mandatory Registrant. When a mandatory registrant has, without good cause, failed or refused to register for employment services, participate in employability services, accept appropriate offers of employment, continue appropriate employment or carry out job search, his refugee cash assistance must be terminated following proper notice in accordance with the provisions of Subsection 300.09.c.~~ ~~(12-31-91)~~

~~c. Sanctions. Sanctions are to be applied according to the following: (7-1-89)~~

~~i. If the sanctioned individual is the only member of the assistance unit, assistance must be terminated for three (3) payment months for the first failure and six (6) payment months for any subsequent failure. (7-1-89)~~

~~ii. If the assistance unit includes members other than the sanctioned individual, the sanctioned individual's needs must not be taken into account in determining eligibility for or the amount of refugee cash assistance for the assistance unit for three (3) payment months for the first failure and six (6) payment months for each subsequent failure. (7-1-89)~~

~~iii. IRSP or the Department of Employment in areas not served by the IRSP must provide a conciliation period prior to the imposition of any sanctions in accordance with the following: (7-1-89)~~

~~(1) The conciliation effort must begin as soon as possible, but no later than ten (10) days following the date of the failure or refusal to participate and can continue for a period not to exceed thirty (30) days. (7-1-89)~~

~~(2) The conciliation period can be terminated sooner by the IRSP or the individual when either believes the dispute cannot be resolved by conciliation. (7-1-89)~~

~~10. Thirty Dollars ($30) and One-third (1/3) Disregard. The thirty dollars ($30) and one-third (1/3) disregard and thirty dollars ($30) disregard must not be allowed in determining refugee cash assistance eligibility or grant amount. Other disregards which apply in the AFDC program shall apply in the same manner in the refugee assistance program. (12-31-91)~~

~~30~~151. -- 399. (RESERVED).

400. REFUGEE MEDICAL ASSISTANCE PROGRAM ~~- REFUGEES~~.

01. Time Limitation. ~~Effective October 1, 1991, m~~Medical assistance under the Refugee ~~Resettlement~~ Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for a child born in the United States to parents receiving Refugee ~~m~~Medical ~~a~~Assistance expires when both of his parents with whom he is living are no longer eligible. ~~(7-1-98)~~(10-1-98)T

~~a. Effective October 1, 1991, the refugee medical assistance eligibility period is reduced to eight (8) months for persons who were not receiving refugee medical assistance as of September 30, 1991. (10-28-93)~~

~~b. Effective November 30, 1991, refugee medical assistance must be terminated for any recipient who, as of that date, has reached or passed the end of the eight (8) month period beginning with the refugee's month of entry into the U.S. (10-28-93)~~

02. Medical Only. A refugee is not required to apply for or receive ~~Refugee~~ Cash Assistance as a condition of eligibility for Refugee Medical Assistance. ~~(1-29-92)~~(10-1-98)T

03. Automatic Eligibility. Refugees whose countable income does not exceed the AFDC payment standard are automatically eligible for medical assistance. (10-1-82)

04. Medical Assistance with "Spend Down". Refugees whose countable income exceeds the AFDC payment standard may also be eligible for medical assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds the AFDC payment standard to apply their income above the payment standard to their medical costs and thus "spend down" to the AFDC eligibility level. This "spend down" will be computed on a quarterly basis; the quarter begins with the month of application. Compute the amount by which the refugee's income exceeds the AFDC payment standard on a monthly basis using the best estimate of income to be received during the quarter and multiply the monthly excess by three (3) to determine the quarterly "spend down". (10-1-82)

05. Counting Income and Resources for Refugee Medical Assistance with a "Spend Down". (7-1-93)

a. AFDC policy determines which income must be counted, excluded, or deducted, except that a refugee is not entitled to the thirty dollars ($30) and one-third (1/3) disregard or the thirty dollar ($30) disregard must not be allowed. (12-31-91)

b. The AFDC payment standard applicable for the size of family unit determines the amount to which an individual or family must "spend down" to be eligible for refugee medical assistance. (7-1-89)

c. AFDC policy determines which resources must be counted or excluded for a refugee unit which must meet a medical "spend down". (10-1-82)

d. Total countable resources of the assistance unit must not exceed one thousand dollars ($1,000). (7-1-89)

e. No financial resources which are not available to the refugee, including resources remaining in his homeland, are to be considered in determining eligibility for medical assistance. (6-1-81)

f. The income and resources of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for medical assistance. A shelter allowance must not be given for any in-kind shelter provided. (6-1-81)

06. Financially Responsible Relatives. (6-1-81)

a. The Department must consider the income and resources of nonrefugee spouses or parents as available to the refugee whether or not they are actually contributed, if they live in the same household. (6-1-81)

b. If the nonrefugee spouse or parent does not live with the individual, the Department must consider income and resources that are actually contributed by the spouse or parent as available to the refugee. (6-1-81)

07. Deduction of Incurred Medical Expenses. If countable income exceeds the AFDC income standard, the Department must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party: (6-1-81)

a. Medicare and other health insurance premiums, deductibles, or coinsurance charges, incurred by the individual or family or financially responsible relatives. (10-1-82)

b. Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not covered under the scope of the Medical Assistance Program. (6-1-81)

c. Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services covered in the scope of the Medical Assistance Program. (6-1-81)

d. The Department may set reasonable limits on expenses to be deducted from income under Subsections 400.07.a. and 400.07.b. (12-31-91)

08. Determining Eligibility for Medical Assistance for Refugees Who Must Meet a "Spend Down". The refugee recipient must provide verification of expenses incurred pursuant to Subsection 400.07. If the recipient has medical coverage from a third party, he must verify that charges will not be paid by this third party by providing an Explanation of Benefits or other written statement from the third party. (12-31-91)

a. As the recipient submits medical expenses, the charges should be added in the order listed in Subsection 400.07 and then under Subsection 400.07.c. in chronological order by the date of service. (12-31-91)

b. When the charges equal or exceed the amount of the "spend down," the recipient becomes eligible for Medical Assistance. (6-1-81)

c. The date of eligibility is the date of service on the last bill which is covered under the scope of the Medical Assistance Program. (6-1-81)

d. It is the responsibility of the ~~Eligibility Examiner~~ Case Manager to determine when the "spend down" has been met. ~~(6-1-81)~~(10-1-98)T

09. Issuing a Medical Card to a Refugee Who Must Meet a "Spend Down". A Medical Card will not be issued until the recipient has met the "spend down". The dates on the Medical Card under "Valid Only During" will be the date the recipient becomes eligible for Medicaid benefits "to" the last day of the last month in the quarter for which the "spend down" has been determined. (10-1-82)

10. Extended Medicaid. An assistance unit which becomes ineligible for refugee medical assistance because of increased earnings from employment of a member of the unit, is entitled to an extension, up to four (4) months, of non-spend down refugee medical assistance. Extended refugee medical assistance must not be extended beyond a refugee's eighth month in the U.S. (10-28-93)

~~401. -- 499. (RESERVED).~~

~~500. FOOD STAMP ELIGIBILITY.~~
~~Refugees must meet all of the food stamp eligibility criteria in order to be eligible for food stamps as no special exceptions have been made for them. (6-1-81)~~

~~5~~401. -- 599. (RESERVED).

600. RELATIONSHIP TO SSI.
All refugee recipients who are sixty-five (65) or older, or aged, blind, or disabled, must be immediately referred to the Social Security Administration to apply for SSI benefits. ~~Such refugees will continue to receive assistance under the Refugee Resettlement Program until SSI benefits are begun. When the Department learns that SSI has made a payment to a refugee the same month as the Refugee Resettlement Program, an attempt to recover the amount of the financial assistance payment should be made through the overpayment collection procedures.~~ ~~(4-1-83)~~(10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

700. PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS.
Eligibility for refugee ~~cash and/or~~ medical assistance is limited to refugees who have been determined ineligible for TAFI, AABD, or Medicaid but who meet refugee ~~cash and/or~~ medical assistance eligibility requirements. ~~(7-1-98)~~(10-1-98)T

01. New Applicants. (7-1-93)

a. An applicant for ~~refugee cash and/or~~ medical assistance must first have his eligibility determined for TAFI, AABD and/or Medicaid. To be eligible for TAFI, AABD and/or Medicaid, the refugee must meet all the eligibility criteria for the applicable category of assistance. ~~(7-1-98)~~(10-1-98)T

b. If the applicant is determined ineligible for TAFI, AABD and/or Medicaid, his eligibility is then determined under the Refugee ~~Resettlement~~ Medical Assistance Program. ~~(7-1-98)~~(10-1-98)T

02. Transfer of Cases. At the end of the eight (8) month time limit for Refugee ~~Cash or~~ Medical Assistance, a refugee who is determined eligible may be transferred to ~~TAFI, AABD, or~~ Medicaid. ~~(7-1-98)~~(10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

725. REPORTING CHANGES.
Applicants for and recipients of ~~r~~Refugee ~~cash and/or~~ ~~m~~Medical ~~a~~Assistance must inform the Field Office in person or in writing as soon as possible but in no event later than ten (10) calendar days of any changes in income, including receipt of new income, of commencement of employment, of changes in resources, changes in the amount of refugee cash assistance or of any other changes in circumstances which affect the refugee's eligibility for refugee ~~cash and/or~~ medical assistance ~~or the amount of his refugee cash assistance~~.- ~~(10-28-93)~~(10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

730. OVERPAYMENTS AND ~~UNDERPAYMENTS~~ RESTORATION OF BENEFITS.
Policy governing recovery of overpayments and restoration of ~~underpayments~~ benefits of ~~r~~Refugee ~~cash and~~ ~~m~~Medical ~~a~~Assistance is contained in Idaho Department of Health and Welfare Rules, IDAPA 16, ~~Title~~ 03, ~~Chapter~~ 01, "Rules Governing Eligibility for Aid to Families with Dependent Children (AFDC)" in effect on June 30, 1997. ~~(7-1-98)~~(10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

800. CASE RECORD INFORMATION.
The following information must be recorded in case records of refugees in addition to documentation required by AFDC regulations: (6-1-81)

01. Registration Number. Record the passport or alien registration number from INA Form I-94. (6-1-81)

02. Date of Entry. Record the month and year of entry into the United States. The receipt of benefits under the Refugee ~~Resettlement~~ Medical Assistance Program will be limited to eight (8) months from the date of entry into the United States ~~effective October 1, 1991~~. ~~(1-29-92)~~(10-1-98)T

03. Nationality. Record the country in which the refugee was living and fled because of persecution or fear or persecution. (6-1-81)

04. Resettlement Agency. Record the name of the resettlement agency. (10-1-82)

05. Sponsor. Record the name and address of the sponsor. (6-1-81)

06. Initial Settlement. If a refugee initially settled in another state or states prior to moving to Idaho, record the name(s) of the state(s) from which he moved and in which he initially settled. (10-1-84)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July 1, 1998 Administrative Bulletin, Volume 98-7, pages 128 through 132.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Pattie Campbell at (208) 334-5815.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 08

RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 128 through 132.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Adds all the eligibility criteria for At-Risk Services, including a need for a work related service, a child living in the home, income below 200% of the Federal Poverty Limit, resources must be such that the family does not have the ability to meet an emergent need, cannot be a TAFI participant. At-Risk Services will be paid for only those work-related services that have been identified in a 30 day period to meet needs that do not extend beyond a 90 day period. The limit of the number of participants will be set by the Department of Health and Welfare. An individual can receive At-Risk Services no more than once in any twelve month period.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-9802

215. EXCLUDED INCOME.
The types of income listed in Subsections 215.01 through 215.33 are excluded. (7-1-98)

01. Supportive Services. Supportive services payments. (7-1-98)

02. Work Reimbursements. Work-related reimbursements. (7-1-98)

03. Child's Earned Income. Earned income of a dependent child, who is attending school. (7-1-98)

04. Child Support. Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-98)

05. Loans. Loans with a signed, written repayment agreement. (7-1-98)

06. Third Party Payments. Payments made by a person directly to a third party on behalf of the family. (7-1-98)

07. Money Gifts. Money gifts, up to one hundred dollars ($100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)

08. TAFI. Retroactive TAFI grant corrections. (7-1-98)

09. Social Security Overpayment. The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. ~~(7-1-98)~~(10-1-98)T

10. Interest Income. Interest posted to a bank account. (7-1-98)

11. Tax Refunds. State and federal income tax refunds. (7-1-98)

12. EITC Payments. EITC payments. (7-1-98)

13. Disability Insurance Payments. Taxes withheld and attorney’s fees paid to secure disability insurance payments. (7-1-98)

14. Sales Contract Income. Taxes and insurance costs related to sales contracts. (7-1-98)

15. Foster Care. Foster care payments. (7-1-98)

16. Adoption Assistance. Adoption assistance payments. (7-1-98)

17. Food Programs. Commodities and food stamps. (7-1-98)

18. Child Nutrition. Child nutrition benefits. (7-1-98)

19. Elderly Nutrition. Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)

20. Low Income Energy Assistance. Benefits paid under the Low Income Energy Assistance Act of 1981. (7-1-98)

21. Home Energy Assistance. Home energy assistance payments under Public Law 100-203, Section 9101. (7-1-98)

22. Utility Reimbursement Payment. Utility reimbursement payments. (7-1-98)

23. Housing Subsidies. Housing subsidies. (7-1-98)

24. Housing And Urban Development (HUD) Interest. Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-98)

25. Native American Payments. Payments authorized by law made to people of Native American ancestry. (7-1-98)

26. Educational Income. Educational income, except that AmeriCorps living allowances, stipends, and AmeriCorps Education Award minus attendance costs are earned income. (7-1-98)

27. Work Study Income of Student. College work study income. (7-1-98)

28. VA Educational Assistance. VA Educational Assistance. (7-1-98)

29. Senior Volunteers. Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)

30. Relocation Assistance. Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)

31. Disaster Relief. Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)

32. Radiation Exposure Payments. Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)

33. Agent Orange. Agent Orange settlement payments. (7-1-98)

34. Spina Bifida. Spina bifida allowances paid to children of Vietnam veterans. (10-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

261. APPLICANT ONE-TIME CASH PAYMENT ELIGIBILITY CRITERIA.
The applicant family must meet the criteria listed in Subsections 261.01 through 261.0~~7~~8. ~~(7-1-98)~~(10-1-98)T

01. SSN. An SSN must be provided for each adult family member. (7-1-98)

02. Dependent Child. The family must have a dependent child or a pregnant woman must be in her last trimester and be medically unable to work. (7-1-98)

03. Residence. The family must live in Idaho and adults in the household must not have received a TANF payment in the same month from another state. (7-1-98)

04. Voluntary Quit. An adult family member must not have voluntarily quit their most recent employment within sixty (60) days or be on strike. (7-1-98)

05. Income and Resources. The family must be income eligible for TAFI and have no resources to meet the need. (7-1-98)

06. Period of Ineligibility. The family must not be in a period of TAFI ineligibility. (7-1-98)

07. Agreement. The family must complete a one-time cash agreement. (7-1-98)

08. Twelve (12) Month Restriction. If a family received at-risk services or an Emergency Assistance to Needy Families with Children payment within the past twelve (12) months, the family cannot receive a one-time cash payment. (10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

345. -- ~~99~~369. (RESERVED).

370. AT-RISK SERVICES.
An individual with a dependent child, at risk of becoming eligible for TAFI within ninety (90) days without intervention, may be eligible for at-risk services. An application must be completed for at-risk services. SSN and income must be verified. Other eligibility criteria are verified at the discretion of the Department. (10-1-98)T

371. AT-RISK ELIGIBILITY CRITERIA.
The individual must meet the criteria in Subsections 371.01 through 371.10. (10-1-98)T

01. Eligible Individual. The individual must be a parent or a caretaker relative with the child in the home, or must be a pregnant woman. (10-1-98)T

02. Need for Work-Related Services. The individual must be in need of work-related services and be unemployed or underemployed. (10-1-98)T

03. Income Limit. The family's income must be below two hundred percent (200%) of the federal poverty guidelines. The individual must meet the income criteria for only the first month to receive at-risk services for up to ninety (90) days. (10-1-98)T

04. Resource Limit. The family's resources must be such that he cannot meet an emergent need, or is unable to meet the emergent need because of circumstances beyond his control. (10-1-98)T

05. Citizenship and Legal Non-Citizen. The individual must be a citizen or must meet the legal non-citizenship requirements of Section 131. (10-1-98)T

06. SSN. An SSN must be provided for the individual. (10-1-98)T

07. Residence. The individual must live in the State of Idaho and must not be a resident of another state. (10-1-98)T

08. TANF Restrictions. The individual cannot be eligible for or receive TANF benefits. The individual cannot receive at-risk services if he has received twenty-four (24) months of TAFI benefits or has received five (5) years of TANF benefits. The individual cannot be receiving TANF Extended Cash Assistance. (10-1-98)T

09. Twelve (12) Month Restriction. If the family received a TANF one-time cash payment or Emergency Assistance to Needy Families with Children payment within the past twelve (12) months the individual cannot receive at-risk services. If an individual received at-risk services within the past twelve (12) months the individual cannot receive at-risk services. (10-1-98)T

10. JSAP Restriction. The individual cannot receive at-risk services while receiving JSAP services. (10-1-98)T

372. SERVICES PAID.
At-risk services will be paid for only those work-related services identified and authorized in a thirty (30) day period to meet needs that do not extend beyond a ninety (90) day period. (10-1-98)T

373. LIMIT TO NUMBER OF AT-RISK PARTICIPANTS.
The limit on the number of unduplicated at-risk cases eligible to receive at-risk services will be the limit established by the Idaho Department of Health and Welfare based on the federal fiscal year. An individual who applies for at-risk services after the limit has been reached must be denied at-risk services. (10-1-98)T

374. TIME LIMIT.
At-risk payments do not count towards the TAFI twenty-four (24) month time limit. If the Department pays at-risk services in error, the month does not count towards the twenty-four (24) month TAFI time limit. (10-1-98)T

375. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-9803

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Public Law 104-193 allows states to design the criteria for child support cooperation and good cause for failing to cooperate. It has come to the Department's attention that participants may legitimately not know information about the father of a child and cannot give the required minimum information to begin the child support paternity and collection process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach, Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-9803

149. GOOD CAUSE FOR NOT COOPERATING.
Good cause for not cooperating with Child Support Services (CSS) is limited to the reasons listed in Subsections 149.01 through 149.0~~2~~3. ~~(7-1-98)~~( )

01. Rape or Incest. Proof is provided that the child was conceived as a result of incest or rape. (7-1-98)

02. Physical or Emotional Harm. Proof is provided that the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent or the caretaker relative. (7-1-98)

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. ( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

The Department published these temporary rules in the Idaho Administrative Bulletin, Volume No. 98-2 to add Licensed Professional Counselors-Private Practice to the list of eligible providers of psychotherapy. In addition, other technical changes were made in order to update the rules to reflect current licensure practices. The effect of these rules eliminated the Licensed Social Worker (LSW) and Registered Nurse (RN) from providing psychotherapy. Following negotiations with the industry, LSW's and RN's who were employed by the mental health clinic prior to February 27, 1998 will continue to be eligible providers until additional negotiations and research are completed. These proposed rules replace the previously published rules.

In February 1998, the Board of Health and Welfare adopted this rule as a temporary rule with an effective date of January 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 89 and 104. With this publication, the Department is initiating proposed rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Lloyd Forbes at, (208) 364-1831.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.
The temporary effective date is January 1, 1998.

The original temporary rule text was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 89 through 104.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9801

112. REHABILITATIVE SERVICES - - MENTAL HEALTH.
Pursuant to 42 CFR 440.130(d), the Department shall purchase rehabilitative services for maximum reduction of mental disability and restoration of the recipient to the best possible functional level. Services shall be provided through the State Mental Health Authority in each region, hereafter referred to as the Community Support Program (CSP), in accordance with Title 39, Chapter 31, Idaho Code, Regional Mental Health Services. Each region shall deliver a range of Community Support Program (CSP) services in their communities including treatment, rehabilitation and supportive services. (7-1-94)

01. Responsibilities of Regions. Each region shall enter into a provider agreement with the Division of Medicaid for CSP services and shall be responsible for the following: (7-1-94)

a. Develop, maintain and coordinate a region-wide, comprehensive and integrated service system of department and other providers. (7-1-94)

b. Provide CSP services directly, or through contracts with other providers. (7-1-94)

c. Assure provision of CSP services to recipients on a twenty-four (24) hour basis. (7-1-94)

d. Assure completion of an intake assessment and service plan for each recipient. (7-1-94)

e. Provide service authorizations and functions required to administer this section. (7-1-94)

f. Monitor the quality of services provided in this section in coordination with the Divisions of ~~Welfare~~ Medicaid and Family and Community Services. ~~(7-1-94)~~(____)

02. Service Descriptions. A CSP shall consist of the following services: (7-1-94)

a. A comprehensive assessment shall be completed for each recipient of CSP services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with Subsections 112.04.a. through 112.04.f. All the following areas must be evaluated and addressed: (7-1-94)

i. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other

information that contributes to the recipient's current psychiatric status; and (7-1-94)

ii. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician; and (7-1-94)

iii. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (7-1-94)

iv. Financial status which includes at a minimum, adequacy and stability of the recipient's financial status, difficulties the recipient perceives with it, resources available, recipient's ability to manage personal finances; and (7-1-94)

v. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to acquire leisure, recreational, or social interests; and (7-1-94)

vi. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness; and (7-1-94)

vii. Basic living skills which includes at a minimum, recipient's ability to meet basic living needs, what the recipient wants to accomplish in this area; and (7-1-94)

viii. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, present situation as appropriate to the recipient's needs; and (7-1-94)

ix. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, daily living skills necessary for community living. (7-1-94)

b. A written service plan shall be developed and implemented for each recipient of CSP services as a vehicle to address the rehabilitative needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and other support systems. The written service plan shall be developed within thirty (30) calendar days from the date the recipient chooses the agency as his provider. Case planning is reimbursable if conducted by a qualified provider, in accordance with Subsection 112.04.a. through 112.04.f. The case plan must include, at a minimum: (7-1-94)

i. A list of focus problems identified during the assessment; and (7-1-94)

ii. Concrete, measurable goals to be achieved, including time frames for achievement; and (7-1-94)

iii. Specific objectives directed toward the achievement of each one of the goals; and (7-1-94)

iv. Documentation of participants in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient; and (7-1-94)

v. Reference to any formal services arranged, including specific providers where applicable; and (7-1-94)

vi. Planned frequency of services initiated. (7-1-94)

c. Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. (7-1-94)

i. These services are reimbursable if provided by a qualified professional~~, including a psychiatrist, physician, registered nurse, psychologist, clinician, or social worker~~ in accordance with Subsections 112.04.a. through 112.04.~~e.~~g. ~~(7-1-94)~~(____)

ii. Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)

d. Pharmacologic management services shall be provided in accordance with the service plan. (7-1-94)

i. Medication prescription must be done by a licensed physician or licensed nurse practitioner in direct contact with the recipient. (7-1-94)

ii. Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. (7-1-94)

iii. Other CSP providers, included in Subsection 112.04, may assist in "self" administration by verbal prompts. (7-1-94)

e. Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. This service includes one (1) or more of the following: (7-1-94)

i. Assistance in gaining and utilizing skills necessary to undertake school or employment. This includes helping the recipient learn personal hygiene and grooming, securing appropriate clothing, time management and other skills related to recipient's psychosocial condition. (7-1-94)

ii. Ongoing, on-site assessment/evaluation/feedback sessions to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher. (7-1-94)

iii. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior. (7-1-94)

iv. Problem solving, support, and supervision related to activities of daily living to assist recipients to gain and utilize skills including, but not limited to, personal hygiene, household tasks, transportation utilization, and money management. (7-1-94)

v. To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments. (7-1-94)

vi. Medication education may be provided by a licensed physician or licensed nurse focusing on educating the recipient about the role and effects of medications in treating symptoms of mental illness. (2-6-95)

f. Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service to two or more individuals, at least one of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. This service includes one (1) or more of the following: (7-1-94)

i. Medication education groups provided by a licensed physician or licensed nurse focusing on educating recipients about the role and effects of medications in treating symptoms of mental illness. These groups must not be used solely for the purpose of group prescription writing. (7-1-94)

ii. Employment or school related groups to focus on symptom management on the job or in school, anxiety reduction, and education about appropriate job or school related behaviors. (7-1-94)

iii. Groups in communication and interpersonal skills, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. (7-1-94)

iv. Symptom management groups to identify symptoms of mental illnesses which are barriers to successful community integration, crisis prevention, identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons. (7-1-94)

v. Groups on activities of daily living which help recipients learn skills related to, but not limited to, personal hygiene and grooming, household tasks, transportation utilization and money management. (7-1-94)

g. Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (7-1-94)

i. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

ii. Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, even if it is not in the service plan. (7-1-94)

iii. Community crisis support is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. (7-1-94)

03. Excluded Services. (7-1-94)

a. Treatment services rendered to recipients residing in inpatient medical facilities including nursing homes or hospitals. (7-1-94)

b. Recreational therapy which includes activities which are primarily social or recreational in nature. (7-1-94)

c. Job-specific interventions, job training and job placement services which includes helping the recipient develop a resume, applying for a job, and job training or coaching. (7-1-94)

d. Staff performance of household tasks and chores. (7-1-94)

e. Targeted Case Management as provided under the state plan. (7-1-94)

f. Any other services not listed in Subsection 112.02. (7-1-94)

04. Community Support Program Provider Staff Qualifications. All individual providers must be employees of the State Mental Health Authority in each region or employees of an agency contracting with the Department to provide Community Support services. The employing entity shall supervise individual CSP providers and assure that the following qualifications are met for each individual provider: (7-1-94)

a. A physician or psychiatrist shall be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine; (7-1-94)( )

b. A certified psychiatric nurse shall be licensed in accordance with Title 54, Chapter 14, Idaho Code, and be certified by a recognized national certification organization; (7-1-94)( )

c. A psychologist shall be licensed in accordance with Title 54, Chapter 23, Idaho Code; (7-1-94)

d. A psychologist extender who is registered with the Bureau of Occupational Licenses; ( )

~~d~~e. A clinician shall be employed by a state agency and meet the minimum standards established by the Idaho Personnel Commission. (7-1-94)

f. A Licensed Professional Counselor - Private Practice Licensure who is licensed in accordance with Section 54-3404.10, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Counselor Licensing Board," Section 225; ( )

~~e~~g. A certified social worker or Certified Social Worker, Private/Independent Practice, shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; ~~(7-1-94)~~( )

h. A social worker shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; ( )

i. A registered nurse, R.N., shall be licensed in accordance with Title 54, Chapter 23, Idaho Code. ( )

~~f~~j. A psychosocial rehabilitation specialist shall hold a bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling, psychosocial rehabilitation, or a closely related field; (7-1-94)

~~g~~k. An occupational therapist shall be licensed in accordance with Chapter 54, Idaho Code. (7-1-94)

05. Record Requirements. In addition to the development and maintenance of the treatment plan, the following documentation must be maintained by the provider: (7-1-94)

a. Name of recipient; and (7-1-94)

b. Name of the provider agency and person providing the service; and (7-1-94)

c. Date, time, and duration of service; and (7-1-94)

d. Activity record describing the recipient and the service provided; and (7-1-94)

e. Documented review of progress toward each service plan goal and assessment of recipient's need for services at least every one hundred twenty (120) days. (2-6-95)

06. Payment for Services. Payment for CSP services must be in accordance with rates established by the Department. (7-1-94)

a. Payment for services shall not duplicate payment made to public or private entities under other program authorities for the same purpose. (7-1-94)

b. Only one (1) staff member may bill for an assessment, treatment plan, or case review when multiple CSP staff are present. (7-1-94)

c. Medication prescription and administration may be billed only by physicians and other medical staff qualified under Idaho Code. CSP staff shall not be paid for other medical procedures. For example, changing dressings on a wound. (7-1-94)

d. Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules shall be cause for recoupment of payments for services, sanctions, or both. (7-1-94)

e. The provider shall provide the Department with access to all information required to review compliance with these rules. (7-1-94)

f. Psychiatric or psychological evaluations and tests may be provided as a reimbursable service in conjunction with the assessment. (7-1-94)

g. Psychological evaluations are reimbursable if provided by a qualified clinician or psychology extender, in accordance with Subsection 112.04.d., under the direction of a psychologist, Ph.D. ~~(7-1-94)~~(____)

h. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with development of a service plan are reimbursable. (7-1-94)

07. Service Limitations. The following service limitations shall apply to CSP services, unless otherwise authorized by the State Mental Health Authority in each region. (7-1-94)

a. A combination of any evaluation or diagnostic services are limited to a maximum of six (6) hours annually. (7-1-94)

b. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (7-1-94)

c. Community crisis support services are limited to a maximum of four (4) hours per day during a period of five (5) consecutive days and must receive prior authorization from the State Mental Health Authority in each region. (7-1-94)

d. Individual and group psychosocial rehabilitation services are limited to twenty (20) hours per week and must receive prior authorization from the State Mental Health Authority in each region. Services in excess of twenty (20) hours require additional review and prior authorization by the State Mental Health Authority in each region. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

115. CLINIC SERVICES -- MENTAL HEALTH CLINICS.

Pursuant to 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a recipient who is not an inpatient in a hospital or nursing home except as specified under Subsection 115.05.d. The mental health clinic must be approved by the Department and be under the direction of a licensed physician. (12-31-91)

01. Care and Services Provided. (12-31-91)

a. Services must be provided specifically in conjunction with a medically ordered plan of care when delivered by licensed, qualified professionals employed full or part-time within a clinic. (11-10-81)

b. All treatment must be based on an individualized assessment of the patient's needs, and provided under the direct supervision of a licensed physician. (11-10-81)

c. All medical care plans must: (11-10-81)

i. Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; and (11-10-81)

ii. Contain the diagnosis, problem list, type, frequency, and duration of treatment; and (11-10-81)

iii. Be reviewed and authorized and signed within thirty (30) days of implementation; and (11-10-81)

iv. Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days

thereafter; and (11-10-81)

v. Be completely rewritten and authorized annually. (11-10-81)

d. Licensed, qualified professionals providing clinic services to eligible MA recipients must have, at a minimum, one (1) or more of the following ~~degrees~~ qualifications: ~~(11-10-81)~~(____)

i. Psychiatrist, M.D.; or (11-10-81)

ii. Physician, M.D.; or (11-10-81)

iii. Licensed Psychologist~~, Ph.D., Ed.D., M.A./M.S.~~; or ~~(11-10-81)~~(____)

iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (____)

~~iv~~v. Licensed Certified Social Workers, or Licensed Certified Social Workers, Private/Independent Practice; or ~~(11-10-81)~~(____)

vi. Licensed Social Workers; or (____)

~~v~~vii. Certified Psychiatric Nurse, R.N., as described in Subsection 112.04.b.; or ~~(11-10-81)~~(____)

viii. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (____)

~~vi~~ix. ~~Mental Health Rehabilitation Specialist,~~ Registered Occupational Therapist, O.T.R.; or ~~(11-10-81)~~(____)

x. Licensed Registered Nurse, R.N. (____)

02. Care and Services Not Covered. (11-10-81)

a. The MA Program will not pay for clinic services rendered to MA recipients residing in in-patient medical facilities including, but not limited to, nursing homes or hospitals; or (11-10-81)

b. Any service or supplies not included as part of the allowable scope of the MA Program; or (11-10-81)

c. Services provided within the clinic framework by persons other than those qualified to render services as specified in Section 115. (12-31-91)

03. Evaluation and Diagnostic Services. (11-10-81)

a. Medical psychosocial intake histories must be contained in all case files. (11-10-81)

b. Information gathered will be used for establishing a recipient data base used in part to formulate the diagnosis and treatment plan. (11-10-81)

c. The medical psychosocial intake is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following ~~degrees~~ qualifications: ~~(11-10-81)~~(____)

i. Licensed Psychologist~~, Ph.D., Ed.D., M.A./M.S.~~; or ~~(11-10-81)~~(____)

ii. Psychologist extender, registered with the Bureau of Occupational Licenses; or (____)

~~ii~~iii. Licensed Certified Social Worker, or Licensed Certified Social Worker, Private/Independent Practice; Licensed Social Worker; or ~~(11-10-81)~~(____)

~~iii~~iv. Certified Psychiatric Nurse, R.N.; or ~~(11-10-81)~~(   )

v. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (   )

~~iv~~vi. Licensed Physician, M.D., or Psychiatrist, M.D. ~~(11-10-81)~~(   )

d. If an individual who is not eligible for MA receives intake services from any staff not having the required degree(s) as provided in Subsection 115.03.c., and later becomes eligible for MA, a new intake assessment and treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. (12-31-91)

e. Any provider of evaluation, diagnostic service, or treatment designed by any person other than a person designated as qualified by these rules, is not eligible for reimbursement under the MA Program. (11-10-81)

f. Psychiatric or psychological testing may be provided in conjunction with the medical psychosocial intake history as a reimbursable service. (11-10-81)

g. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of a medical care treatment plan are reimbursable. (11-10-81)

h. All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the recipient's file for documentation purposes. (11-10-81)

i. All data gathered must be directed towards formulation of a written diagnosis, problem list, and treatment plan which specifies the type, frequency, and anticipated duration of treatment. (11-10-81)

j. A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services provided to an eligible recipient in a calendar year. A calendar year begins on the first date of service provided to an eligible recipient. (11-10-81)

04. Treatment Services. (11-10-81)

a. Individual and group psychotherapy must be provided in accordance with the goals specified in the written medical treatment plan. (11-10-81)

b. Family-centered psychosocial services must include at least two (2) family members and must be delivered in accordance with the goals of treatment as specified in the medical treatment plan. (11-10-81)

c. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (11-10-81)

i. Emergency services provided to an eligible recipient prior to intake and evaluation is a reimbursable service but must be fully documented in the recipient's record; and (11-10-81)

ii. Each emergency service will be counted as a unit of service and part of the allowable limit per recipient unless the contact results in hospitalization. (11-10-81)

d. Psychotherapy services may be provided to recipients residing in a nursing facility if the following criteria are met: (11-29-91)

i. The recipient has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and (11-29-91)

ii. The service is provided outside the nursing facility at a clinic location or other location where clinic staff is available; and (11-29-91)

iii. Services provided are: (11-29-91)

(1) Supported by the independent evaluations completed and approved by the Mental Health Authority; and (11-29-91)

(2) Incorporated into the recipient's medical care plan; and (11-29-91)

(3) Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

e. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 115.04.a. through 115.04.d. must have, at a minimum, one (1) or more of the following degrees: (11-29-91)

i. Psychiatrist, M.D.; or (11-29-91)

ii. Physician, M.D.; or (11-10-81)

iii. Licensed Psychologist~~, Ph.D., Ed.D., M.A./M.S~~; or ~~(11-10-81)~~(   )

iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (   )

~~iv~~v. Licensed Certified Social Worker~~s,~~ or Licensed Certified Social Worker~~s~~ - Private Practice; or ~~(11-10-81)~~(   )

vii. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (   )

vi. Licensed Professional Counselor - Private Practice Licensure; or (   )

~~v~~viii. Certified Psychiatric Nurse, R.N.; or ~~(11-10-81)~~(   )

ix. A Registered Nurse who was employed by the clinic prior to February 27, 1998. (   )

f. Psychotherapy services as set forth in Subsections 115.04.a. through 115.04.c. are limited to forty-five (45) hours per calendar year. (12-31-91)

g. Chemotherapy consultations must be provided by a physician or licensed nurse practitioner in direct contact with the recipient. (11-10-81)

i. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

ii. Chemotherapy treatment can be part of the medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

h. Nursing services, when physician ordered and supervised, can be part of the recipient's medical care plan. (11-10-81)

i. Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)

ii. Such treatment can be part of the recipient's medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

i. Partial care services will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning. (11-10-81)

i. To qualify as a partial care service, the service must be offered a minimum of three (3) continuous

hours daily, four (4) days per week; and (11-10-81)

ii. Treatment will be limited to fifty-six (56) hours per week per eligible recipient; and (7-8-90)

iii. Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and (11-10-81)

iv. Partial care services will be part of the recipient's medical care plan which must specify the amount, frequency, and expected duration of treatment; and (11-10-81)

v. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the ~~following degrees:~~ qualifications listed in Subsection 115.01.d. ~~(11-10-81)~~(____)

~~(1) Psychiatrist, M.D.; or~~ ~~(11-10-81)~~

~~(2) Physician, M.D.; or~~ ~~(11-10-81)~~

~~(3) Psychologist, Ph.D., Ed.D., M.A./M.S.; or~~ ~~(11-10-81)~~

~~(4) Licensed Certified Social Worker, Licensed Social Worker; or~~ ~~(11-10-81)~~

~~(5) Registered Nurse, R.N.; or~~ ~~(11-10-81)~~

~~(6) Registered Occupational Therapist.~~ ~~(11-10-81)~~

05. Record Keeping Requirements. (11-10-81)

a. Each clinic will be required to maintain records on all services provided to MA recipients. (11-10-81)

b. The records must contain a current treatment plan ordered by a physician and must meet the requirements as set forth in Subsection 115.01.c. (12-31-91)

c. The records must: (11-10-81)

i. Specify the exact type of treatment provided; and (11-10-81)

ii. Who the treatment was provided by; and (11-10-81)

iii. Specify the duration of the treatment; and (11-10-81)

iv. Contain detailed records which outline exactly what occurred during the therapy session or recipient contact; and (11-10-81)

v. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (11-10-81)

d. Any service not adequately documented in the recipient's record by the signature of the therapist providing the therapy or recipient contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. (11-10-81)

e. Any treatment or contact provided as a result of a treatment plan performed by any staff other than as set forth herein will not be eligible for reimbursement by the Department. (11-10-81)

f. If a record is determined not to meet minimum requirements as set forth herein any payments made on behalf of the recipient are subject to recoupment. (11-10-81)

06. Payment Procedures. (11-10-81)

a. Payment for clinic services will be made directly to the clinic and will be in accordance with rates established by the Department for the specific services. (11-10-81)

b. Each provider of clinic services must accept the Department's payment for such services as payment in full and must not bill the MA recipient for any portion of any charges incurred for the cost of his care. (11-10-81)

c. All available third party payment resources, such as Medicare and private insurance, must be exhausted before the Department is billed for services provided to an eligible recipient. Proof of billing other third party payors will be required by the Department. (11-10-81)

d. Payment for the administration of injections must be in accordance with rates established by the Department. (11-10-81)

116. TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL.
The Department will purchase case management (CM) services for adult Medicaid recipients with severe disabling mental illness. Services will be provided by an organized provider agency which has entered into a provider agreement with the Department. The purpose of these services is to assist eligible individuals to gain access to needed medical, social, educational, mental health and other services. (8-1-92)

01. Eligible Target Group. Only those individuals who are mentally ill and eighteen (18) years of age or older who are at risk of using high cost medical services associated with frequent exacerbations of mental illness are eligible for CM services. (8-1-92)

a. The following diagnostic and functional criteria will be applied to determine membership in this target population: (8-1-92)

i. Diagnosis: A condition of severe and persistent mental illness and a diagnosis listed in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R) within one (1) of the following classification codes for: (8-1-92)

(1) Schizophrenia - 295.1,.2,.3,.6 and.9; (8-1-92)

(2) Organic mental disorders associated with Axis III physical disorders or conditions, or whose etiology is unknown - 293.00, 293.81, 293.82, 293.83, 294.00, 294.10, 294.80, 310.10; (8-1-92)

(3) Affective disorders - 296.2, 296.3, 296.4, 296.5, 296.6, 296.7, 300.4, 301.13, 311.0; (8-1-92)

(4) Delusional disorder - 297.1; (8-1-92)

(5) Other psychotic disorders - 295.4, 295.7, 297.3, 298.8 and 298.9; (8-1-92)

(6) Personality disorders - 301.00, 301.22, 301.83. (8-1-92)

(7) If the only diagnosis is one (1) or more of the following, the person is not included in the target population for CM services: (8-1-92)

(a) Mental retardation; or (8-1-92)

(b) Alcoholism; or (8-1-92)

(c) Drug abuse. (8-1-92)

ii. Functional limitations: The psychiatric disorder must be of sufficient severity to cause a disturbance in the role performance or coping skills in at least two (2) of the following areas, on either a continuous (more than

once per year) or an intermittent (at least once per year) basis: (8-1-92)

(1) Vocational or academic: Is unemployed, unable to work or attend school, is employed in a sheltered setting or supportive work situation, or has markedly limited skills and a poor work history. (8-1-92)

(2) Financial: Requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help, or the person is unable to support him or manage his finances without assistance. (8-1-92)

(3) Social/interpersonal: Has difficulty in establishing or maintaining a personal social support system, has become isolated, has no friends or peer group and may have lost or failed to acquire the capacity to pursue recreational or social interests. (8-1-92)

(4) Family: Is unable to carry out usual roles and functions in a family, such as spouse, parent, or child, or faces gross familial disruption or imminent exclusion from the family. (8-1-92)

(5) Basic living skills: Requires help in basic living skills, such as hygiene, food preparation, or other activities of daily living, or is gravely disabled and unable to meet daily living requirements. (8-1-92)

(6) Housing: Has lost or is at risk of losing his current residence. (8-1-92)

(7) Community: Exhibits inappropriate social behavior or otherwise causes a public disturbance due to poor judgment, bizarre, or intrusive behavior which results in intervention by law enforcement and/or the judicial system. (8-1-92)

(8) Health: Requires assistance in maintaining physical health or in adhering to medically prescribed treatment regimens. (8-1-92)

b. Recipients may reside in adult foster care, residential care, semi-independent living, room and board or their own homes. (8-1-92)

c. Recipients may be receiving homemaker, personal care, home health, respite or other services. (8-1-92)

d. Recipients who elect hospice services as found in Section 104, or are receiving case management services through another program are excluded from CM services. (8-1-92)

02. Services Descriptions. CM services shall be delivered by eligible providers to assist the Medicaid recipient to obtain and coordinate needed health, educational, vocational and social services in the least restrictive, most appropriate and most cost-effective setting. CM services shall consist of the following core functions: (8-1-92)

a. Assessment: A CM provider must have the capacity to perform written comprehensive assessments of a person's assets, deficits and needs. Assessment is an interactive process with the maximum feasible involvement of the recipient. Should the assessments reveal that the person does not need CM services, appropriate referrals will be made to meet other needs of the participant. All the following areas must be evaluated and addressed: (8-1-92)

i. Psychiatric history and current mental status: Includes but is not limited to age of onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the client manifests, is the client able to identify his symptoms, medication history; substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to their current psychiatric status; and (10-22-93)

ii. Medical history and current medical status: Includes but is not limited to history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications; name of current physician; and (10-22-93)

iii. Vocational status: Includes but is not limited to current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (10-22-93)

iv. Financial status: Includes but is not limited to adequacy and stability of the client's financial status, what difficulties they perceive with it, what resources may be available, client's ability to manage personal finances; and (10-22-93)

v. Social relationships/support: Includes but is not limited to client's ability to establish/maintain personal support systems or relationships, client's ability to acquire leisure, recreational, or social interests; and (10-22-93)

vi. Family status: Includes but is not limited to: client's ability or desire to carry out family roles, client's perception of the support he receives from their family, what role does the family play in the client's mental illness; and (10-22-93)

vii. Basic living skills: Includes but is not limited to client's ability to meet their basic living needs, what does the client want to accomplish in this area; and (10-22-93)

viii. Housing: Includes but is not limited to: current living situation and level of satisfaction with the arrangement, is present situation appropriate to the client's needs; and (8-1-92)

ix. Community/Legal status: Includes but is not limited to legal history with law enforcement, transportation needs, supports the client has in the community, daily living skills necessary for community living. (8-1-92)

b. Service Plan Development and Implementation. Following the assessment(s) and determination of need for CM, a written service plan shall be developed and implemented as a vehicle to address the case management needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family or other support system, and the CM provider. The written service plan shall be developed within thirty (30) calendar days of when the recipient chooses the agency as his provider and must include, at a minimum: (8-1-92)

i. A list of focus problems identified during the assessments; and (8-1-92)

ii. Concrete, measurable goals to be achieved, including time frames for achievement; and (8-1-92)

iii. Specific plans directed toward the achievement of each one of the goals; and (8-1-92)

iv. Documentation of who has been involved in the service planning; the recipient, if possible, must be involved. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided as to why this was not possible. A copy of the plan must be given to the recipient; and (8-1-92)

v. Reference to any formal services arranged, including specific providers where applicable; and (8-1-92)

vi. Planned frequency of services initiated. (8-1-92)

c. Crisis Assistance. Crisis assistance services are those case management activities that are needed in addition to the assessment and ongoing case management hours in emergency situations. These are necessary activities to obtain services needed to ensure the health and/or safety or to prevent hospitalization or incarceration of a recipient. Crisis assistance may be provided prior to or after the completion of the assessments and individual service plan. (8-1-92)

d. Linking/Coordination of Services. Through negotiation and referrals, the case manager links the recipient to various providers of services/care and coordinates service delivery. Coordination of service delivery includes activities such as: assuring that needed services have been delivered, consulting with service providers to ascertain whether they are adequate for the needs of the recipient, and consulting with the client to identify the need

for changes in a specific service or the need for additional services. The case manager may refer to his own agency for services but may not restrict the recipient's choice of service providers. It may be necessary to mobilize more than one set of resources to make adequate services available. The case manager may be needed to act as an advocate for the recipient. There must be a minimum of one face-to-face contact with the recipient at least every thirty (30) days. (10-22-93)

e. The case manager will encourage independence of the recipient by demonstrating to the individual how to best access service delivery systems such as transportation and Meals on Wheels, etc. Such assistance must be directed toward reducing the number of case management hours needed. Such assistance is limited to thirty (30) days per service delivery system. (10-22-93)

03. CM Provider Agency Qualifications. Case management provider agencies must meet the following criteria: (8-1-92)

a. Utilization of a standardized intake and prescreening process for determining whether or not Medicaid eligible individuals are included in the target group for case management services. Prescreening must be effective in sorting out who does and who does not need a full assessment of needs for CM. (8-1-92)

b. Demonstrated capacity in providing all core elements of case management services to the target population including: (8-1-92)

i. Comprehensive assessment; and (8-1-92)

ii. Comprehensive service plan development and implementation; and (8-1-92)

iii. Crisis assistance; and (8-1-92)

iv. Linking/coordination of services; and (8-1-92)

v. Encouragement of independence. (10-22-93)

c. Provides clients of the agency the availability of a case manager on a twenty-four (24) hour basis to assist them in obtaining needed services. (8-1-92)

04. CM Provider Staff Qualifications. All individual CM providers must be employees of an organized provider agency that has a valid CM provider agreement with the Department. The employing entity will supervise individual CM providers and assure that the following qualifications are met for each individual CM provider: (8-1-92)

a. Must be a Psychiatrist, M.D., D.O.; or physician, M.D., D.O.; or Licensed Psychologist~~, Ph.D., Ed.D., M.A./M.S.~~; or Psychologist Extender who is registered with the Bureau of Occupational Licenses; or social worker with a valid Idaho social work license issued by the Board of Social Work Examiners; or nurse, R.N.; or Licensed Professional Counselor - Private Practice Licensure; or a clinician employed by a state agency and who meets the requirements of the Idaho Personnel Commission; or ~~have~~ an individual having a B.A./B.S. in a human services field and at least one (1) year experience ~~in the psychiatric or mental health field~~ with the target population. ~~(8-1-92)~~(____)

b. A total caseload per case manager of no more than twenty (20) individuals. The Bureau may grant a waiver of the caseload limit when requested by the agency. The following criteria must be met to justify a waiver: (8-1-92)

i. The availability of case management providers is not sufficient to meet the needs of the service area. (8-1-92)

ii. The recipient that has chosen the particular agency or individual case manager that has reached their limit~~,~~ and has just cause to need that particular agency or manager over other available agencies/managers. ~~(8-1-92)~~(____)

iii. The request for waiver must include: (8-1-92)

(1) The time period for which the waiver is requested; (8-1-92)

(2) The alternative caseload limit requested; (8-1-92)

(3) Assurances that the granting of the waiver would not diminish the effectiveness of the CM agency, violate the purposes of the program, or adversely affect the recipients' health and welfare. (8-1-92)

iv. The Bureau may impose any conditions on the granting of the waiver which it deems necessary. (8-1-92)

v. The Bureau may limit the duration of a waiver. (8-1-92)

05. Recipient's Choice. The eligible recipient will be allowed to choose whether or not he desires to receive CM services. All recipients who choose to receive CM services will have free choice of CM providers as well as the providers of medical and other services under the Medicaid program. (8-1-92)

06. Payment for Services. When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as CM services, however, the actual provision of the service does not constitute CM. Medicaid will reimburse only for core services (Subsection 116.02) provided to members of the eligible target group by qualified staff. (8-1-92)

a. Payment for CM will not duplicate payment made to public or private entities under other program authorities for the same purpose. (8-1-92)

b. Payment will not be made for CM services provided to individuals who are inpatients in nursing homes or hospitals. (8-1-92)

c. Reimbursement for the initial evaluation and individual service plan development shall be paid based on an hourly rate, not to exceed eight (8) hours. The rate will be established by the Bureau. (8-1-92)

d. Reimbursement for on-going case management services shall be made on an hourly rate for service delivered. The rate will be established by the Bureau. (8-1-92)

e. Medicaid reimbursement shall be provided only for the following case management services: (8-1-92)

i. Face-to-face contact between the case manager and the recipient; (8-1-92)

ii. Telephone contact between the case manager and the recipient, the recipient's mental health and other service providers, a recipient's family members, primary caregivers, legal representative, or other interested persons; (8-1-92)

iii. Face-to-face contacts between the case manager and the recipient's family members, legal representative, primary caregivers, mental health providers or other service providers, or other interested persons; (8-1-92)

iv. Development, review, and revision of the recipient's individual service plan, including the case manager's functional assessment of the recipient. (8-1-92)

f. The Department will not provide Medicaid reimbursement for on-going case management services delivered prior to the completion of the assessments and individual service plan. (8-1-92)

g. The Department will provide Medicaid reimbursement for crisis assistance provided prior to or after the completion of the assessments and individual service plan. (8-1-92)

h. Audit reviews will be conducted at least once a calendar year by the Bureau. Review findings may be referred to the Department's Surveillance and Utilization Review Section for appropriate action. (7-1-94)

i. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both. (10-22-93)

j. The provider will provide the Department with access to all information required to review compliance with these rules. (10-22-93)

k. The Department will not provide Medicaid reimbursement for case management services provided to a group of recipients. (8-1-92)

l. Medicaid will reimburse for case management services on the same date a recipient is admitted or discharged from a hospital, nursing facility, or other institutional setting, as long as the recipient is not yet admitted or has been discharged at the time of service delivery. (8-1-92)

i. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the facility. (7-1-94)

07. Record Requirements. In addition to the development and maintenance of the service plan, the following documentation must be maintained by the provider: (8-1-92)

a. Name of recipient; and (8-1-92)

b. Name of the provider agency and person providing the service; and (8-1-92)

c. Date, time, and duration of service; and (8-1-92)

d. Place of service; and (8-1-92)

e. Activity record describing the recipient and the service provided; and (8-1-92)

f. Documented review of progress toward each CM service plan goal, and assessment of the recipient's need for CM and other services at least every one hundred twenty (120) days; and (8-1-92)

g. Documentation justifying the provision of crisis assistance to the recipient; and (8-1-92)

h. An informed consent form signed by the recipient or legal guardian clearly explaining the purpose of case management. (8-1-92)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9807

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

These rules define the eligible target group, services provided, place of service delivery, provider qualifications, provider reimbursement, and recipient eligibility. These rules apply to services to persons with TBI.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Russell C. Spearman at, (208) 364-1842.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach, Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9807

401. -- ~~995~~764. (RESERVED).

765. WAIVER SERVICES FOR ADULTS WITH A TRAUMATIC BRAIN INJURY.

Pursuant to 42 CFR Section 435.217, it is the intention of the Department to provide waiver services to eligible recipients in order to prevent unnecessary institutional placement, to provide for the greatest degree of independence possible, to enhance the quality of life, to encourage individual choice, and to achieve and maintain community integration. For a recipient to be eligible, the Department must find that the recipient requires services due to a traumatic brain injury which impairs their mental or physical function or independence, be capable of being

maintained safely and effectively in a non-institutional setting and would, in the absence of such services, require the level of care provided in a NF as set forth in IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 180.03. (10-1-98)T

766. ELIGIBLE TARGET GROUP.
Persons who are medicaid eligible, whose injury to the brain occurred on or after the age of twenty two (22) and have been diagnosed with a traumatically acquired non-degenerative, structural brain injury resulting in residual deficits and disability who require the level of care provided in a nursing facility. (10-1-98)T

767. DIAGNOSTIC CRITERIA.
In order to qualify for the waiver under this rule the person must have a diagnosis listed in the International Classification of Diseases - Clinical Modification Medicode (ICD-CM). The diagnosis must be within one (1) of the classification codes listed:

TABLE 767

Classification Code Number	Classification Description
348.1	Anoxic brain damage
431	Intra cerebral hemorrhage
800-800.9	Fracture of a vault of the skull
801-801.99	Fracture of the base of the skull
803-803.99	Other skull fractures
804-804.99	Multiple fractures involving the skull, face, and other bones
851-851.9	Cerebral laceration and contusion
852-852.99	Subarachnoid, subdural, and extradural hemorrhage following injury
853-853.99	Other unspecified Intra cerebral hemorrhage following injury
905-907.0	Late effects of skull and face fractures plus late effects of intracranial injury without fractures

(10-1-98)T

768. SERVICES PROVIDED.
Services that may be provided under the waiver consist of residential habilitation, chore, respite care, supported employment, transportation, environmental accessibility adaptations, specialized medical equipment and supplies, personal emergency response system, day rehabilitation, home delivered meals, behavior consultation/crisis management, and skilled nursing services. Also included are extended state plan services including administrative case management, physical therapy, occupational therapy, speech therapy, personal care services. (10-1-98)T

769. RESIDENTIAL HABILITATION.
Services consist of an integrated array of individually-tailored services and supports furnished to eligible recipients designed to assist them to reside successfully in their own homes, with their families, or alternate family homes. The services and supports that may be furnished are listed in sections 769 through 771. (10-1-98)T

770. HABILITATION SERVICES.
Services consist of assisting the individual to acquire, retain or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: (10-1-98)T

01. Self-Direction. Self-direction consists of the identification of and response to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (10-1-98)T

02. Money Management. Money management consists of training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (10-1-98)T

03. Daily Living Skills. Daily living skills consists of training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, home safety, first aid, and emergency procedures; (10-1-98)T

04. Socialization. Socialization consists of training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the recipient to their community. (Socialization training associated with participation in community activities includes assisting the recipient to identify activities of interest, working out arrangements to participate in such activities and identifying specific training activities necessary to assist the recipient to continue to participate in such activities on an on-going basis. Socialization training does not include participation in nontherapeutic activities which are merely diversional or recreational in nature); (10-1-98)T

05. Mobility. Mobility consists of training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; (10-1-98)T

06. Behavior Shaping and Management. Behavior shaping and management consists of training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors; or extension of therapeutic services, which consist of reinforcing physical, occupational, speech and other therapeutic programs. (10-1-98)T

771. PERSONAL ASSISTANCE SERVICES.
Services consist of assisting the individual in daily living activities, household tasks, and such other routine activities as the recipient or the recipient's primary caregiver(s) are unable to accomplish on his own behalf. (10-1-98)T

01. Skills Training. Skills training consists of teaching waiver recipients, family members, alternative family caregiver(s), or a recipient's roommate or neighbor to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self direction, money management, socialization, mobility and other therapeutic programs. (10-1-98)T

772. -- 779. (RESERVED).

780. CHORE SERVICES.
Services consist of heavy household maintenance and minor home repairs necessary to maintain the functional use of the home and to provide a clean, sanitary and safe environment. Chore activities include washing windows; moving heavy furniture and shoveling snow to provide safe access inside and outside the home; chopping wood when wood is the recipient's primary source of heat; and tacking down loose rugs and flooring. These services are only available when neither the recipient, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer/ agency or third party payor is capable of or responsible for their provision. In the case of rental property, the responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the recipient. (10-1-98)T

781. RESPITE CARE SERVICES.
Services consist of those services provided, on a short term basis, in the home of either the waiver recipient or respite provider, to relieve the person's family or other primary caregiver(s) from daily stress and care demands. While receiving respite care services, the waiver recipient cannot receive other waiver services which are duplicative in nature. Respite care services provided under this waiver will not include room and board payments. Respite care

services are limited to recipients who reside with non-paid caregivers. (10-1-98)T

782. SUPPORTED EMPLOYMENT.
Supported employment consists of competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work. (10-1-98)T

783. EXCLUSIONS FROM SUPPORTED EMPLOYMENT.

01. Supported Employment Services. Supported employment services rendered under the waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation will be maintained in the file of each individual receiving this service verifying that the service is not otherwise available/funded under the Rehabilitation Act of 1973 as amended, or IDEA; and the waiver participant has been deinstitutionalized from an NF or ICF/MR at some prior period. (10-1-98)T

02. Federal Financial Participation (FFP). FFP will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver recipients to encourage or subsidize employers' participation in a supported employment program; payments that are passed through to beneficiaries of supported employment programs; or payments for vocational training that is not directly related to a waiver participant's supported employment program. (10-1-98)T

784. TRANSPORTATION SERVICES.
Services consist of services offered in order to enable waiver recipients to gain access to waiver and other community services and resources required by the individual support plan. This service is offered in addition to medical transportation required under 42 CFR 431.53 and transportation services offered under the State plan, defined at 42 CFR 440.170(a), and shall not replace them. Whenever possible, family, neighbors, friends, or community agencies which can provide this service without charge or public transit providers will be utilized. (10-1-98)T

785. ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.
Adaptations consist of interior or exterior physical adaptations to the home, required by the waiver recipient's support plan, which are necessary to ensure the health, welfare, safety of the individual, or which enable the individual to function with greater independence in the home and without which, the waiver recipient would require institutionalization. Such adaptations may include the installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems which are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver recipient, but shall exclude those adaptations or improvements to the home which are not of direct medical or remedial benefit to the recipient, such as carpeting, roof repair, or central air conditioning. All services shall be provided in accordance with applicable State or local building codes. Permanent environmental modifications are limited to modifications to a home rented or owned by the recipient or the recipient's family when the home is the recipient's principal residence. Portable or non-stationary modifications may be made when such modifications can follow the recipient to his next place of residence or be returned to the Department. (10-1-98)T

786. SPECIALIZED MEDICAL EQUIPMENT AND SUPPLIES.
Specialized medical equipment and supplies consist of devices, controls, or appliances, specified in the Individual Support Plan which enable recipients to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. They also include items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the State plan and shall exclude those items which are not of direct medical or remedial benefit to the recipient. All items shall meet applicable standards of manufacture, design and installation. (10-1-98)T

787. PERSONAL EMERGENCY RESPONSE SYSTEMS (PERS).
PERS consist of a system which may be provided to monitor waiver recipient safety and/or provide access to

emergency crisis intervention for emotional, medical or environmental emergencies through the provision of communication connection systems. PERS are limited to recipients who rent or own their home, who are alone for significant parts of the day, have no regular caretaker for extended periods of time and who would otherwise require extensive routine supervision. (10-1-98)T

788. HOME DELIVERED MEALS.

Home delivered meals consist of meals designed to promote adequate waiver recipient nutrition through the provision and home delivery of one (1) to two (2) meals per day. Home delivered meals limited to recipients who rent or own their own home, who are alone for significant parts of the day and have no regular caretaker for extended periods of time. (10-1-98)T

789. EXTENDED STATE PLAN SERVICES.

01. Extended State Plan Services. Extended state plan services under the waiver consist of physical therapy services; occupational therapy services; and speech, hearing and language services. These services are to be available through the waiver when the need for such services exceeds the therapy limitations under the State plan. Under the waiver, therapy services will include: (10-1-98)T

a. Services provided in the waiver recipient's residence, day rehabilitation site, or supported employment site; (10-1-98)T

b. Consultation with other service providers and family members; (10-1-98)T

c. Participation on the recipient's Individual Support Plan team. (10-1-98)T

790. NURSING SERVICES.

Services consist of intermittent or continuous oversight and skilled care in a non-congregate setting, which is within the scope of the Nurse Practice Act and as such must be provided by a licensed registered nurse or licensed practical nurse under the supervision of a registered nurse, licensed to practice in Idaho. These services are not appropriate if they are available and more cost effective than a Home Health visit. Nursing services may include but are not limited to the insertion and maintenance of nasogastric tubes and the monitoring or installation of feeding material, the maintenance of volume ventilators including associated tracheotomy care, tracheotomy and oral pharyngeal suctioning, maintenance and monitoring of IV fluids and/or nutritional supplements which are to be administered on a continuous or daily basis, injections, blood glucose monitoring, and blood pressure monitoring. (10-1-98)T

791. PERSONAL CARE SERVICES.

Services consist of assistance due to a medical condition which impairs physical or mental function and which maintains a consumer safely and effectively in their own home or residence. Services include but are not limited to bathing, care of the hair, assistance with clothing, basic skin care, bladder and bowel requirements, medication management, food nutrition and diet activities, active treatment training programs, and non-nasogastric gastrostomy tube feedings. (10-1-98)T

792. BEHAVIOR CONSULTATION/CRISIS MANAGEMENT.

Behavior consultation/crisis management consist of services which provide direct consultation and clinical evaluation of recipients who are currently experiencing or may be expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a recipient. These services also provide emergency back-up involving the direct support of the recipient in crisis. (10-1-98)T

793. DAY REHABILITATION.

Day rehabilitation consists of assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills which take place in a non-residential setting, separate from the home or facility in which the individual resides. Services shall normally be furnished four (4) or more hours per day on a regularly scheduled basis, for one (1) or more days per week unless provided as an adjunct to other day activities included in an individual’s plan of care. Day rehabilitation services shall focus on enabling the individual to attain or maintain his or her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies listed in the plan of care. In addition, day rehabilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings. (10-1-98)T

794. PLACE OF SERVICE DELIVERY.

Waiver services for recipients with a traumatic brain injury may be provided in the recipient's personal residence, specialized family home, waiver facilities, day rehabilitation/supported employment program or community. The following living situations are specifically excluded as a personal residence for the purpose of these rules: (10-1-98)T

01. Excluded as a Personal Residence. (10-1-98)T

a. Licensed Skilled, or Intermediate Care Facilities, Certified Nursing Facility (NF) or hospital; and (10-1-98)T

b. Licensed Intermediate Care Facility for the Mentally Retarded (ICF/MR); and (10-1-98)T

c. Licensed Residential Care Facility; and (10-1-98)T

d. Adult Foster Homes. (10-1-98)T

e. Additional limitations to specific services are listed under that service definition. (10-1-98)T

795. SERVICE DELIVERED FOLLOWING A WRITTEN PLAN.

All waiver services must be authorized by the Regional Medicaid Unit in the Region where the recipient will be residing and provided based on a written Individual Support Plan (ISP). (10-1-98)T

01. Development of the ISP. The ISP is developed by the ISP team which includes: (10-1-98)T

a. The Waiver Recipient. Efforts must be made to maximize the recipient's participation on the team by providing him with information and education regarding his rights; and (10-1-98)T

b. The Department's administrative case manager chosen by the recipient; and (10-1-98)T

c. The guardian when appropriate; and (10-1-98)T

d. May include others identified by the waiver recipient. (10-1-98)T

02. Assessment Process Approved by the Department. The ISP must be based on an assessment process approved by the Department. (10-1-98)T

03. Included in the ISP. The ISP must include the following: (10-1-98)T

a. The specific types, amounts, frequency and duration of Medicaid reimbursed waiver services to be provided; and (10-1-98)T

b. Supports and service needs that are to be met by the recipient's family, friends and other community services; and (10-1-98)T

c. The providers of waiver services when known; and (10-1-98)T

d. Documentation that the recipient has been given a choice between waiver services and institutional placement; and (10-1-98)T

e. The signature of the recipient or his legal representative and the case manager. (10-1-98)T

f. The plan must be revised and updated by the ISP team based upon treatment results or a change in the recipient's needs, but at least semi-annually. A new plan must be developed and approved annually. (10-1-98)T

05. Authorization of Services. All services reimbursed under the Home and Community Based Waiver for recipients with a traumatic brain injury must be authorized prior to the payment of services by the Regional

Medicaid Unit. (10-1-98)T

06. Service Supervision. The Individual Support Plan which includes all waiver services is monitored by the Department's case manager. (10-1-98)T

796. PROVIDER QUALIFICATIONS.

All providers of waiver services must have a valid provider agreement/ performance contract with the Department. Performance under this agreement/contract will be monitored by the REGIONAL MEDICAID UNIT in each region. (10-1-98)T

01. Residential Habilitation Service Providers. Residential Habilitation services must be provided by an agency that is certified as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies". Providers of residential habilitation services must meet the following requirements. (10-1-98)T

a. Direct service staff must meet the following minimum qualifications: be at least eighteen (18) years of age; be a high school graduate or have a GED or demonstrate the ability to provide services according to an Individual Support Plan; have current CPR and First Aid certifications; be free from communicable diseases; pass a criminal background check (when residential habilitation services are provided in a specialized family home, all adults living in the home must pass a criminal background check); participate in an orientation program, including the purpose and philosophy of services, service rules, policies and procedures, proper conduct in relating to waiver participants, and handling of confidential and emergency situations that involve the waiver participant, provided by the agency prior to performing services; and have appropriate certification or licensure if required to perform tasks which require certification or licensure. (10-1-98)T

b. The provider agency will be responsible for providing training specific to the needs of the recipient. Skill training must be provided by a Program Coordinator who has demonstrated experience in writing skill training programs. Additional training requirements may include at a minimum: instructional technology; behavior technology; feeding; communication/sign language; mobility; assistance with medications (training in assistance with medications must be provided by a licensed nurse); activities of daily living; body mechanics and lifting techniques; housekeeping techniques and maintenance of a clean, safe, and healthy environment. (10-1-98)T

c. Residential habilitation providers who are unable to be employed by an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services by a Program Coordinator who has a valid provider agreement with the Department. (10-1-98)T

d. When residential habilitation services are provided in the provider's home, the agency must meet the environmental sanitation standards; fire and life safety standards; and building, construction and physical home standards for certification as an adult foster home. Non-compliance with the above standards will be cause for termination of the provider's provider agreement/contract. (10-1-98)T

02. Chore Service Providers. Providers of chore services must meet the following minimum qualifications: (10-1-98)T

a. Be skilled in the type of service to be provided; and (10-1-98)T

b. Demonstrate the ability to provide services according to an individual support plan. (10-1-98)T

03. Respite Care Service Providers. Providers of respite care services must meet the following minimum qualifications: (10-1-98)T

a. Meet the qualifications prescribed for the type of services to be rendered, for instance. Residential Habilitation providers must be an employee of an agency selected by the waiver participant and/or the family or guardian; and (10-1-98)T

b. Have received caregiving instructions in the needs of the person who will be provided the service; and (10-1-98)T

c. Demonstrate the ability to provide services according to an individual support plan; and (10-1-98)T

d. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; and (10-1-98)T

e. Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (10-1-98)T

f. Be free of communicable diseases. (10-1-98)T

g. Taken a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

04. Supported Employment Service Providers. Supported Employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State approved provider, and have taken a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

05. Transportation Service Providers Must: (10-1-98)T

a. Possess a valid driver's license; and (10-1-98)T

b. Possess valid vehicle insurance. (10-1-98)T

06. Environmental Modifications Service Providers. Environmental Modifications services must: (10-1-98)T

a. Be done under a permit, if required; and (10-1-98)T

b. Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (10-1-98)T

07. Specialized Medical Equipment and Supplies. Specialized Medical Equipment and Supplies purchased under this service must: (10-1-98)T

a. Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (10-1-98)T

b. Be obtained or provided by authorized dealers of the specific product where applicable. For instance, medical supply businesses or organizations that specialize in the design of the equipment. (10-1-98)T

08. Personal Emergency Response Systems. Personal Emergency Response Systems must demonstrate that the devices installed in waiver participants' homes meet Federal Communications Standards or Underwriter's Laboratory standards or equivalent standards. (10-1-98)T

09. Home Delivered Meal Services. Home Delivered Meals under this section may only be provided by an agency capable of supervising the direct service and must: (10-1-98)T

a. Provide assurances that each meal meets one third (1/3) of the Recommended Dietary Allowance as defined by the Food and Nutrition Board of National Research Council or meet physician ordered individualized therapeutic diet requirement; and (10-1-98)T

b. Maintain Registered Dietitian documented review and approval of menus, menu cycles and any changes or substitutes; and (10-1-98)T

c. Must provide assurances that the meals are delivered on time and demonstrate the ability to deliver

meals at a minimum of three (3) days per week; and (10-1-98)T

d. Maintain documentation reflecting the meals delivered are nutritionally balanced and made from the highest U.S.D.A. Grade for each specific food served; and (10-1-98)T

e. Provide documentation of current driver's license for each driver; and (10-1-98)T

f. Must be inspected and licensed as a food establishment by the District Health Department. (10-1-98)T

10. Extended State Plan Service Providers. All therapy services, with the exception of physical therapy, must be provided by a provider agency capable of supervising the direct service. Providers of services must meet the provider qualifications listed in the State Plan and have taken a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

11. Nursing Service Providers. Nursing Service Providers must provide documentation of current Idaho licensure as a RN or LPN in good standing and have taken a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

12. Behavior Consultation/Crisis Management Service Providers. Behavior Consultation/Crisis Management Providers must meet the following: (10-1-98)T

a. Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D., with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (10-1-98)T

b. Must have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, or a closely related course of study; or (10-1-98)T

c. Be a licensed pharmacist; or (10-1-98)T

d. Emergency back-up providers must meet the minimum provider qualifications under Residential Habilitation services. (10-1-98)T

e. Taken a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

13. Day Rehabilitation Providers. Day Rehabilitation Providers must have a minimum of two (2) years of experience working directly with persons with a traumatic brain injury, must provide documentation of standard licensing specific to their discipline, and have taken a basic and advanced traumatic brain injury course approved by the Department. (10-1-98)T

14. Personal Care Service Providers. Personal Care Service providers must meet the requirements outlined in IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsections 146.06.a. through 146.06.h. - PCS Provider Qualifications. Providers will be required to take a basic and advanced traumatic brain injury training course approved by the Department. (10-1-98)T

797. RECIPIENT ELIGIBILITY DETERMINATION.
Waiver eligibility will be determined by the Regional Medicaid Unit. The recipient must be financially eligible for MA as described in IDAPA 16.03.05, "Rules Governing Eligibility for the Aged, Blind, and Disabled (AABD)," Section 634. The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, waiver recipients must meet the following requirements. (10-1-98)T

01. Requirements For Determining Recipient Eligibility. The Regional MEDICAID Unit must determine that: (10-1-98)T

a. The recipient would qualify for NF level of care as set forth in Section 180 of these rules, if the

waiver services listed in Section 765 of these rules were not made available; and (10-1-98)T

b. The recipient could be safely and effectively maintained in the requested/chosen community residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the ISP team; and prior to any denial of services on this basis, be determined by the Case manager that services to correct the concerns of the team are not available. (10-1-98)T

c. The average daily cost of waiver services and other medical services to the recipient would not exceed the average daily cost to Medicaid of NF care and other medical costs. Individual recipients whose cost of services exceeds this average may be approved on a case by case basis that assures that the average per capita expenditures under the waiver do not exceed one hundred percent (100%) of the average per capita expenditures for NF care under the State plan that would have been made in that fiscal year had the waiver not been granted. This approval will be made by a team identified by the Administrators of the Divisions of Medicaid and Family and Community Services. (10-1-98)T

d. Following the approval by the Regional Medicaid Unit for services under the waiver, the recipient must receive and continue to receive a waiver service as described in these rules. A recipient who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (10-1-98)T

02. Admission to a Nursing Facility. A recipient who is determined by the Regional Medicaid Unit to be eligible for services under the Home and Community Based Services Waiver for adults with a traumatic brain injury may elect to not utilize waiver services but may choose admission to an NF. (10-1-98)T

03. Self-Reliance Specialist. The recipient's self-reliance specialist will process the application in accordance with IDAPA 16.03.05, "Rules Governing Eligibility for the Aged, Blind and Disabled (AABD)," as if the application was for admission to a NF except that the eligibility examiner will forward potentially eligible applications immediately to the Regional Medicaid Unit for review. The Medicaid application process cited above conforms to all statutory and regulatory requirements relating to the Medicaid application process. (10-1-98)T

04. Redetermination Process. Case Redetermination. (10-1-98)T

a. Financial redetermination will be conducted pursuant to IDAPA 16.03.01, "Rules Governing Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for the Aged, Blind and Disabled (AABD)". Medical redetermination will be made at least annually by the Regional Medicaid Unit, or sooner at the request of the recipient, the self-reliance specialist, provider agency or physician. The sections cited implement and are in accordance with Idaho's approved state plan with the exception of deeming of income provisions. (10-1-98)T

b. The redetermination process will assess the following factors: (10-1-98)T

i. The recipient's continued need for waiver services; and (10-1-98)T

ii. Discharge from the waiver services program. (10-1-98)T

798. PROVIDER REIMBURSEMENT.
The following outlines the criteria used in reimbursing providers for waiver services. (10-1-98)T

01. Fee for Services. Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. (10-1-98)T

02. Provider Claims. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (10-1-98)T

03. Calculation of Fees. The fees calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the recipient's home or other service delivery location when the recipient is not being provided transportation. (10-1-98)T

799. PROVIDER RECORDS.
Three (3) types of record information will be maintained on all recipients receiving waiver services: (10-1-98)T

01. Service Provider Information. Direct Service Provider Information which includes written documentation of each visit made or service provided to the recipient, and will record at a minimum the following information: (10-1-98)T

a. Date and time of visit; and (10-1-98)T

b. Services provided during the visit; and (10-1-98)T

c. A statement of the recipient's response to the service, if appropriate to the service provided, including any changes in the recipient's condition; and (10-1-98)T

d. Length of visit, including time in and time out, if appropriate to the service provided. Unless the recipient is determined by the Case manager to be unable to do so, the delivery will be verified by the recipient as evidenced by their signature on the service record. (10-1-98)T

e. A copy of the above information will be maintained in the recipient's home unless authorized to be kept elsewhere by the Regional Medicaid Unit. Failure to maintain documentation according to these rules shall result in the recoupment of funds paid for undocumented services. (10-1-98)T

02. Individual Support Plan. The individual support plan which is initiated by the Regional Medicaid Unit and developed by the Case manager and the ISP team must specify which waiver services are required by the recipient. The plan will contain all elements required by Subsection 143.03 and a copy of the most current individual support plan will be maintained in the recipient's home and will be available to all service providers and the Department. (10-1-98)T

03. Verification of Services Provided. In addition to the individual support plan, at least monthly the case manager will verify in writing, that the services provided were consistent with the individual support plan. Any changes in the plan will be documented and include the signature of the case manager and when possible, the recipient. (10-1-98)T

800. PROVIDER RESPONSIBILITY FOR NOTIFICATION.
It is the responsibility of the service provider to notify the case manager when any significant changes in the recipient's condition are noted during service delivery. Such notification will be documented in the service record. (10-1-98)T

801. RECORDS MAINTENANCE.
In order to provide continuity of services, when a recipient is transferred among service providers, or when a recipient changes case managers, all of the foregoing recipient records will be delivered to and held by the Regional Medicaid Unit until a replacement service provider or case manager assumes the case. When a recipient leaves the waiver services program, the records will be retained by the Regional Medicaid Unit as part of the recipient's closed case record. Provider agencies will be responsible to retain their client's records for three (3) years following the date of service. (10-1-98)T

802. HOME AND COMMUNITY BASED WAIVER RECIPIENT LIMITATIONS.
The number of Medicaid recipients to receive waiver services under the home and community based waiver for recipients with a traumatic brain injury will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after September 30 of each new waiver year. The earliest effective date of waiver service delivery for these recipients will be October 1 of each new waiver year. (10-1-98)T

803. -- 995. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9808

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

October 22, 1998 at 7:00 p.m.
Boise State University
1700 University Drive, Student Union Bldg., Hatch B Ballroom
Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Expands and clarifies specific criteria to be utilized to determine if an individual with mental retardation (or a related condition) meets ICF/MR level of care.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety, and welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Lorraine Hutton at, (208) 364-1835.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach, Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9808

~~171. -- 179.~~ ~~(RESERVED).~~

~~**180. INSPECTION OF CARE/UTILIZATION CONTROL IN LONG-TERM CARE FACILITIES.**~~
~~The following sections describe the Inspection of Care/Utilization Control (IOC/UC) process which must be followed for admission to and continued stay in a nursing facility (NF) or an Intermediate Care Facility for the Mentally Retarded (ICF/MR). (7-1-94)~~

~~01. Prepayment Screen and Determination of Entitlement to Medicaid Payment for NF Care and Services. (7-1-94)~~

~~a. A determination of medical entitlement will not be made until a medical history, physical, and plan of care signed and dated by the physician, a physician's certification for NF care, and the Level I screen and when required, the Level II screen conducted by the Department indicating that NF placement is appropriate have been received in the Regional Medicaid Unit (RMU). The effective date of Medicaid payment will be no earlier than the date of the physician's certification for NF care. The level of care for Title XIX payment purposes is determined by the Regional Nurse Reviewer(s). Necessity for payment is determined in accordance with 42 CFR 456.271 and 42 CFR 456.372 and Section 1919(e) (7) (0) of the Social Security Act. (7-1-94)~~

~~b. In the event a required Level II screen was not accomplished prior to admission, entitlement for Medicaid payment as established by the RMU will not be earlier than the date the Level II screen is completed, indicating that NF placement is appropriate. (7-1-94)~~

~~02. Information Required for Determination. (7-1-94)~~

~~a. A complete medical evaluation current within thirty (30) days of admission, signed and dated by the physician (an electronic physician's signature is permissible), which includes: (7-1-94)~~

~~i. Diagnosis (primary and secondary); and (7-1-94)~~

~~ii. Medical findings and history; and (7-1-94)~~

~~iii. Mental and physical functional capacity; and (7-1-94)~~

~~iv. Prognosis; and (7-1-94)~~

~~v. A statement by the physician certifying the need for NF care and services. (7-1-94)~~

~~b. A physician's plan of care current within thirty (30) days of admission, signed and dated by the physician, which includes: (7-1-94)~~

~~i. Orders for medications and treatments; and (7-1-94)~~

~~ii. Diet and activities; and (7-1-94)~~

~~iii. Rehabilitative, restorative services, and special procedures, where appropriate; and (7-1-94)~~

~~iv. Plan of continuing care and discharge, where appropriate. (7-1-94)~~

~~c. Social information submitted by one (1) of the following: (7-1-94)~~

~~i. The physician; or (7-1-94)~~

~~ii. The applicant or family member; or (7-1-94)~~

~~iii. Health and Welfare agency worker; or (7-1-94)~~

~~iv. Facility social worker or R.N. (7-1-94)~~

~~d. An accurate Level I screen and, when required, a Level II screen. (7-1-94)~~

~~03. Criteria for Determining Need for NF Care. The recipient requires NF level of care when one or more of the following conditions exist and the skills of an R.N., P.T., or O.T. are required on a daily or regular basis: (7-1-94)~~

~~a. Where the inherent complexity of a service prescribed by the physician is such that it can be safely and/or effectively performed only by or under the supervision of a licensed nurse or licensed physical therapist. (7-1-94)~~

~~b. Skilled care is needed to prevent, to the extent possible, deterioration of the resident's condition or to sustain current capacities, regardless of the restoration potential of a resident, even where full recovery or medical improvement is not possible. (7-1-94)~~

~~c. When the plan of care, risk factors, and/or aggregate of health care needs is such that the assessments, interventions, or supervision of the resident necessitates the skills of a licensed nurse or a licensed physical therapist or licensed occupational therapist. In such cases, the specific needs or activities must be documented by the physician's orders, progress notes, plan of care, and nursing and/or therapy notes. (7-1-94)~~

~~04. Skilled Nursing and Other Skilled Rehabilitative Services. Skilled services include the following: (7-1-96)~~

~~a. Services which could qualify as either skilled nursing or skilled rehabilitative services, which include: (7-1-96)~~

~~i. Overall management and evaluation of the care plan. The development, management, and evaluation of a resident's care plan, based on the physician's orders, constitute skilled services when, in terms of the patient's physical or mental condition, such development, management, and evaluation necessitate the involvement of technical or professional personnel to meet his needs, promote his recovery, and assure his medical safety. This would include the management of a plan involving only a variety of personal care services where, in light of the patient's condition, the aggregate of such services necessitates the involvement of technical or professional personnel. Where the patient's overall condition would support a finding that his recovery and/or safety could be assured only if the total care he requires is planned, managed, and evaluated by technical or professional personnel, it would be appropriate to infer that skilled services are being provided. (7-1-94)~~

~~ii. Observation and assessment of the resident's changing condition. When the resident's condition is such that the skills of a licensed nurse or other technical or professional person are required to identify and evaluate the patient's need for possible modification of treatment and the initiation of additional medical procedures until his condition is stabilized, such services constitute skilled services. (7-1-94)~~

~~b. Services which qualify as skilled nursing services include the following: (7-1-96)~~

~~i. Intravenous injections; intravenous feedings; intramuscular or subcutaneous injection required on more than one (1) shift; and (7-1-94)~~

~~ii. Nasopharyngeal feedings; and (7-1-94)~~

~~iii. Nasopharyngeal and tracheotomy aspiration; and (7-1-94)~~

~~iv. Insertion and sterile irrigation and replacement of catheters; and (7-1-94)~~

~~v. Application of dressings involving prescription medications and/or aseptic techniques; and (7-1-94)~~

~~vi. Treatment of extensive decubitus ulcers or other widespread skin disorders; and (7-1-94)~~

~~vii. Heat treatments which have been specifically ordered by a physician as part of treatment and which require observation by nurses to adequately evaluate the resident's progress; and (7-1-94)~~

~~viii. Initial phases of a regimen involving administration of oxygen. (7-1-94)~~

~~c. Services which qualify as skilled rehabilitative services include the following: (7-1-96)~~

~~i. Ongoing assessment of rehabilitation needs and potential, services concurrent with the management of a resident's care plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, activities of daily living, perceptual deficits, speech and language or hearing disorders; and (7-1-94)~~

~~ii. Therapeutic exercises or activities which, because of the type of exercises employed or the condition of the resident, must be performed by or under the supervision of a qualified physical therapist or occupational therapist to ensure the safety of the resident and the effectiveness of the treatment; and (7-1-94)~~

~~iii. Gait evaluation and training furnished by a physical or occupational therapist to restore function in a resident whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality; and (7-1-94)~~

~~iv. Ultrasound, short-wave, and microwave therapy treatments by a licensed physical therapist; and (7-1-94)~~

~~v. Hot pack, hydroculator, infrared treatments, paraffin baths, and whirlpool, in cases where the resident's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications, and the skills, knowledge, and judgement of a licensed physical therapist are required. (7-1-94)~~

~~05. Annual Utilization Control Review. Title XIX recipients in a NF are subject to an on-site review by Regional Nurse Reviewers within ninety (90) days of the date of medical entitlement, and in one (1) year after medical entitlement to determine the need for continued NF care. Reviews will be conducted each calendar quarter on selected Title XIX recipients and other residents mandated by PASARR. (7-1-96)~~

~~a. Selection of recipients/residents to be reviewed each quarter: (7-1-94)~~

~~i. Recipients to be reviewed within ninety (90) days of date of initial medical entitlement; and (7-1-94)~~

~~ii. Recipients whose medical entitlement one (1) year anniversary date falls within the quarter; and (7-1-96)~~

~~iii. Recipients/residents who have a Level II evaluation, with an admission anniversary date that falls within the quarter; and (7-1-94)~~

~~iv. Recipients who are receiving services that require a special Medicaid rate; and (7-1-94)~~

~~v. Recipients identified during previous reviews whose improvement may remove the need for continuing NF care. (7-1-94)~~

~~b. The on-site review conducted by the Regional Nurse Reviewer will include the following components: (7-1-94)~~

~~i. Entrance and exit conferences with appropriate facility personnel unless such conference is waived by the administrator; and (7-1-94)~~

~~ii. A review of the critical indicators in the Minimum Data Set section of the recipient's medical record; and (7-1-94)~~

~~iii. A visit with and observation of each recipient's condition; and (7-1-94)~~

~~iv. A determination whether the recipient continues to require nursing facility care; and (7-1-94)~~

~~v. A determination that those recipients or residents who warrant a Level II evaluation continue to require nursing facility care. (7-1-94)~~

~~06. Preadmission Screening and Determination of Entitlement for Medicaid ICF/MR Payment. Applications for Medicaid payment of an individual with mental retardation, or related condition, in an ICF/MR will be through a State's Regional Developmental Disabilities Centers (DDC). All required information necessary for a medical entitlement determination, including DDC's recommendation for placement and services, must be submitted to the Regional Medicaid Unit before a determination and approval for payment is made. The effective date of Medicaid payment will be no earlier than the physician's signed and dated certification for ICF/MR level of care. (7-1-94)~~

~~07. Information Required for Determination. (7-1-94)~~

~~a. A complete medical evaluation, current within ninety (90) days of admission, signed and dated by the physician, an electronic physician's signature is permissible, which includes: (7-1-96)~~

~~i. Diagnosis (primary and secondary); and (7-1-94)~~

~~ii. Medical findings and history; and (7-1-94)~~

~~iii. Mental and physical functional capacity; and (7-1-94)~~

~~iv. Prognosis; and (7-1-94)~~

~~v. Mobility status; and (7-1-94)~~

~~vi. A statement by the physician certifying the level of care needed as ICF/MR for a specific recipient. (7-1-94)~~

~~b. An initial plan of care, current within ninety (90) days of admission and signed and dated by the physician which includes: (7-1-94)~~

~~i. Orders for medications and treatments; and (7-1-94)~~

~~ii. Diet; and (7-1-94)~~

~~iii. Professional rehabilitative and restorative services and special procedures, where appropriate. (7-1-94)~~

~~c. A social evaluation, current within ninety (90) days of admission, which includes: (7-1-94)~~

~~i. Condition at birth; and (7-1-94)~~

~~ii. Age at onset of condition; and (7-1-94)~~

~~iii. Summary of functional status, e.g. skills level, ADLs; and (7-1-94)~~

~~iv. Family social information. (7-1-94)~~

~~d. A psychological evaluation conducted by a psychologist current within ninety (90) days of admission, which includes: (7-1-96)~~

~~i. Diagnosis; and (7-1-94)~~

~~ii. Summary of developmental findings. Instead of a psychological, infants under three (3) years of age may be evaluated by a developmental disability specialist utilizing the developmental milestones congruent with the age of the infant; and (7-1-94)~~

~~iii. Mental and physical functioning capacity; and (7-1-94)~~

~~iv. Recommendation concerning placement and primary need for active treatment. (7-1-94)~~

~~c. An initial plan of care developed by the admitting ICF/MR. (7-1-94)~~

~~08. Criteria for Determining ICF/MR Care. To meet Title XIX entitlement for intermediate care for the mentally retarded (ICF/MR) level of care, the person must be financially eligible for Medicaid and meet all of the following criteria: (7-1-94)~~

~~a. The person must have a primary diagnosis of mental retardation or have a related condition defined in Subsection 181.09 of these rules; and (7-1-96)~~

~~b. The person must require and receive intensive inpatient active treatment as defined in Subsection 181.10, in an ICF/MR, to advance or maintain his functional level; or (7-1-94)~~

~~c. The person would require the level of care provided in an ICF/MR in the absence of available intensive alternative services in the community. (7-1-94)~~

~~09. Definition of Mental Retardation or Related Condition. For the purposes of these rules, the term "mental retardation or related condition" means a severe, chronic disability of a person which appears before the age of twenty-two (22) years of age; and (7-1-94)~~

~~a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation. This condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons; and (7-1-94)~~

~~b. Is likely to continue indefinitely; and (7-1-94)~~

~~c. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: (7-1-94)~~

~~i. Self-care; or (7-1-94)~~

~~ii. Receptive and expressive language; or (7-1-94)~~

~~iii. Learning; or (7-1-94)~~

~~iv. Mobility; or (7-1-94)~~

~~v. Self-direction; or (7-1-94)~~

~~vi. Capacity for independent living; or (7-1-94)~~

~~vii. Economic self-sufficiency. (7-1-94)~~

~~10. Determination of Need for Active Treatment. (7-1-94)~~

~~a. Active treatment, as used in these rules, is the continuous participation, during all waking hours, by an individual in an aggressive, consistently implemented program of specialized and generic training, treatment, health and related services, and provided in accordance with a treatment plan developed by an interdisciplinary team and monitored by a Qualified Mental Retardation Professional (QMRP) directed toward: (7-1-94)~~

~~i. The acquisition of the behaviors necessary for the resident to function with as much self-determination and independence as possible; or (7-1-94)~~

ii. The prevention or deceleration of regression or loss of current functional status. (7-1-94)

b. Active treatment does not include: (7-1-94)

i. Parenting activities directed toward the acquisition of age-appropriate developmental milestones; or (7-1-94)

ii. Services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program or services; or (7-1-94)

iii. Interventions that address age-appropriate limitations; or (7-1-94)

iv. General supervision of children who's age is such that such supervision is required by all children of the same age. (7-1-94)

c. The following criteria/components will be utilized when evaluating the need for active treatment: (7-1-94)

i. Complete medical, social, and psychological evaluations. These evaluations must clearly indicate the functional level of the recipient and the interventions needed; and (7-1-94)

ii. A written plan of care which sets forth initial goals and objectives, specifies further evaluations to be done, and training programs to be developed. (7-1-94)

11. Recertification for ICF/MR Level of Care. A physician or physician's assistant or nurse practitioner must recertify the resident's continuing need for ICF/MR placement by written, signed, and dated documentation in the resident's medical record. Documentation will consist of the completion of a recertification statement on the "Recertification of Care" HW0209 and/or the entry of all required information on the physician's order sheet. Such documentation shall be accomplished no later than every three hundred sixty-five (365) days from the most recent such certification. (7-1-94)

a. It is the responsibility of the ICF/MR to assure that the recertification is accomplished by the physician, physician's assistant or nurse practitioner no later than every three hundred sixty-five (365) days. Should the Medicaid Program receive a financial penalty from the Department of Health and Human Services due to the lack of appropriate recertification on the part of an ICF/MR, then such amount of money will be withheld from facility payments for services provided to Medicaid recipients. For audit purposes, such financial losses are not reimbursable as a reasonable cost of patient care. Such losses cannot be made the financial responsibility of the Department's client. (7-1-94)

b. The physician's, physician's assistant's, or nurse practitioner's recertification will be monitored by the IOCT at the time of the annual on-site review. (7-1-94)

12. Annual Inspection of Care Review. Each Title XIX resident will receive an on-site comprehensive Inspection of Care review at least annually. (7-1-94)

a. Each Title XIX resident's medical record and plan of care will be reviewed to determine the quality of care and services rendered to the resident. The plan of care must include: (7-1-94)

i. Behaviorally stated measurable goal and objectives; and (7-1-94)

ii. An integrated program of individually designed activities, experiences, and therapies necessary to achieve such goals and objectives. (7-1-94)

b. Observation and/or interview with each Title XIX resident as deemed appropriate; and (7-1-94)

c. A determination of each resident's level of care. The IOCT determines the appropriateness of level

~~of care for the purpose of Medicaid payment; and (7-1-94)~~

~~d. Evaluation of services provided by the facility to determine that each individual resident's needs are met; and (7-1-94)~~

~~e. Verification of recertifications to determine if the physician, physician's assistant, or a nurse practitioner recertified the resident's continuing need for ICF/MR care within the required time frames and is signed and dated by the certifying physician, physician's assistant, or a nurse practitioner. (7-1-94)~~

~~13. Inspection of Care Reports. (7-1-94)~~

~~a. The IOCT will prepare a full and complete report following the annual on-site review in each ICF/MR. The report will be forwarded to the following no later than thirty (30) days after the on-site review: (7-1-94)~~

~~i. Facility administrator; and (7-1-94)~~

~~ii. Facility Utilization Review Committee; and (7-1-94)~~

~~iii. Medicaid single state agency; and (7-1-94)~~

~~iv. Agency responsible for licensing and certification. (7-1-94)~~

~~b. A formal response is required from the facility regarding the IOC deficiencies requiring correction. The Department will specify the amount of time a facility will be allowed to respond which will not exceed thirty (30) days. An extension of time may be granted, not to exceed an additional thirty (30) days if the Department concludes that such an extension is in the best interests of the residents of the facility. The formal response is to be returned to the Regional Medicaid Unit. (7-1-94)~~

~~14. Level of Care Change. Level of care is the level of NF or ICF/MR services provided to meet the patient's/resident's medical, nursing, rehabilitative and/or habilitative care needs. (7-1-94)~~

~~a. If during an on-site review of a resident's medical record and an interview with or observation of the resident an IOC/UC reviewer determines there is a change in the resident's status and the resident no longer meets criteria for NF or ICF/MR care, the tentative decision is: (7-1-94)~~

~~i. Discussed with the facility administrator and/or the director of nursing services; and (7-1-94)~~

~~ii. The patient's/resident's physician is notified of the tentative decision; and (7-1-94)~~

~~iii. The case is submitted to the Regional Review Committee for a final decision; and (7-1-94)~~

~~iv. When NF or ICF/MR care is determined to be not necessary for applicants or no longer necessary or appropriate for a recipient, the Regional Medicaid Unit will notify the local Eligibility Field Office utilizing the HW0083 form that the applicant/recipient is not medically entitled to Medicaid payment. The effective date of loss of payment will be no earlier than ten (10) days following the date of mailing of notice to the recipient by the Eligibility Examiner. (7-1-94)~~

~~15. Appeal of Determinations. The resident or his representative may appeal the decisions as set forth in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 000, et seq., and Section 301, "Rules Governing Contested Cases and Declaratory Rulings". (7-1-96)~~

~~16. Regional Review Committee. A committee established in each region to provide thorough and impartial reviews and final determinations on cases submitted by the Regional Medicaid Unit which includes: (7-1-96)~~

~~a. A resident's continued medical entitlement to NF or ICF/MR care that is no longer recommended by the Regional Nurse Reviewer. (7-1-94)~~

~~b. Applications for medical entitlement where the level of care, client safety, or the effectiveness of care appears to be questionable. (7-1-94)~~

~~c. All denial decisions recommended by the Regional Nurse Reviewer. (7-1-94)~~

~~d. The Committee may continue, terminate the client's Medicaid payments, or recommend a supplemental on-site visit by the Regional Nurse Reviewer if it is deemed necessary. (7-1-94)~~

~~e. No review of a denial of payment is required of the Committee when the denial is based on the level of care determination by the attending physician, i.e. the physician documents that the applicant/recipient does not require NF or ICF/MR level of care. (7-1-94)~~

~~f. The Regional Review Committee shall be composed of the following: (7-1-94)~~

~~i. A consultant physician; and (7-1-94)~~

~~ii. Two (2) registered nurses; and (7-1-94)~~

~~iii. A social worker when necessary; and (7-1-94)~~

~~iv. A qualified mental retardation professional (QMRP) or a qualified mental health professional (QMHP) when necessary; and (7-1-94)~~

~~v. When appropriate, other health and human service personnel responsible to the Department as employees or consultants. (7-1-94)~~

~~17. Supplemental On-Site Visit. The Regional Nurse Reviewer(s) may conduct UC supplemental on-site visits in a NF, or IOC supplemental on-site visits in an ICF/MR when indicated. Some indications may be: (7-1-96)~~

~~a. Follow-up activities; and (7-1-94)~~

~~b. A verification of a recipient's appropriateness of placement and/or services; and (7-1-94)~~

~~c. Conduct complaint investigations at the Department's request. (7-1-94)~~

1~~8~~71. -- 184. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

401. -- ~~764~~499. (RESERVED).

500. INSPECTION OF CARE/UTILIZATION CONTROL IN LONG-TERM CARE FACILITIES.
The following sections describe the Inspection of Care/Utilization Control (IOC/UC) process which must be followed for admission to and continued stay in a nursing facility (NF) or an Intermediate Care Facility for the Mentally Retarded (ICF/MR). (11-1-98)T

501. PREPAYMENT SCREEN AND DETERMINATION OF ENTITLEMENT TO MEDICAID PAYMENT FOR NF CARE AND SERVICES.
A determination of medical entitlement will not be made until a medical history, physical, and plan of care signed and dated by the physician, a physician's certification for NF care, and the Level I screen and when required, the Level II screen conducted by the Department indicating that NF placement is appropriate have been received in the Regional Medicaid Unit (RMU). The effective date of Medicaid payment will be no earlier than the date of the physician's

certification for NF care. The level of care for Title XIX payment purposes is determined by the Regional Nurse Reviewer(s). Necessity for payment is determined in accordance with 42 CFR 456.271 and 42 CFR 456.372 and Section 1919(e) (7) (0) of the Social Security Act. In the event a required Level II screen was not accomplished prior to admission, entitlement for Medicaid payment as established by the Regional Medicaid Unit (RMU) will not be earlier than the date the Level II screen is completed, indicating that NF placement is appropriate. (11-1-98)T

502. INFORMATION REQUIRED FOR DETERMINATION - MEDICAL EVALUATION.
A complete medical evaluation current within thirty (30) days of admission, signed and dated by the physician (an electronic physician's signature is permissible), which includes: diagnosis (primary and secondary); medical findings and history; mental and physical functional capacity; prognosis; and a statement by the physician certifying the need for NF care and services. (11-1-98)T

503. INFORMATION REQUIRED FOR DETERMINATION - PLAN OF CARE.
A physician's plan of care current within thirty (30) days of admission, signed and dated by the physician, which includes: orders for medications and treatments; diet and activities; rehabilitative, restorative services, and special procedures, where appropriate; and plan of continuing care and discharge, where appropriate. (11-1-98)T

504. INFORMATION REQUIRED FOR DETERMINATION - SOCIAL INFORMATION.
Social information submitted by one (1) of the following: the physician; the applicant or family member; Health and Welfare agency worker; or facility social worker or R.N. (11-1-98)T

505. INFORMATION REQUIRED FOR DETERMINATION - LEVEL I AND II SCREENS.
An accurate Level I screen and, when required, a Level II screen. (11-1-98)T

506. CRITERIA FOR DETERMINING NEED FOR NF CARE.
The recipient requires NF level of care when one or more of the following conditions exist and the skills of an R.N., P.T., or O.T. are required on a daily or regular basis: (11-1-98)T

01. Supervision Required. Where the inherent complexity of a service prescribed by the physician is such that it can be safely and/or effectively performed only by or under the supervision of a licensed nurse or licensed physical therapist. (11-1-98)T

02. Preventing Deterioration. Skilled care is needed to prevent, to the extent possible, deterioration of the resident's condition or to sustain current capacities, regardless of the restoration potential of a resident, even where full recovery or medical improvement is not possible. (11-1-98)T

03. Specific Needs. When the plan of care, risk factors, and/or aggregate of health care needs is such that the assessments, interventions, or supervision of the resident necessitates the skills of a licensed nurse or a licensed physical therapist or licensed occupational therapist. In such cases, the specific needs or activities must be documented by the physician's orders, progress notes, plan of care, and nursing and/or therapy notes. (11-1-98)T

507. SKILLED SERVICES.
Skilledservicesincludeserviceswhichcouldqualifyaseitherskillednursingorskilledrehabilitativeservices,whichinclude: (11-1-98)T

01. Oversight. Overall management and evaluation of the care plan. The development, management, and evaluation of a resident's care plan, based on the physician's orders, constitute skilled services when, in terms of the patient's physical or mental condition, such development, management, and evaluation necessitate the involvement of technical or professional personnel to meet his needs, promote his recovery, and assure his medical safety. This would include the management of a plan involving only a variety of personal care services where, in light of the patient's condition, the aggregate of such services necessitates the involvement of technical or professional personnel. Where the patient's overall condition would support a finding that his recovery and/or safety could be assured only if the total care he requires is planned, managed, and evaluated by technical or professional personnel, it would be appropriate to infer that skilled services are being provided. (11-1-98)T

02. Assessment. Observation and assessment of the resident's changing condition. When the resident's condition is such that the skills of a licensed nurse or other technical or professional person are required to identify

and evaluate the patient's need for possible modification of treatment and the initiation of additional medical procedures until his condition is stabilized, such services constitute skilled services. (11-1-98)T

03. Direct Skilled Nursing Services. Services which qualify as direct skilled nursing services include the following: (11-1-98)T

a. Intravenous injections; intravenous feedings; intramuscular or subcutaneous injection required on more than one (1) shift; and (11-1-98)T

b. Nasopharyngeal feedings; and (11-1-98)T

c. Nasopharyngeal and tracheotomy aspiration; and (11-1-98)T

d. Insertion and sterile irrigation and replacement of catheters; and (11-1-98)T

e. Application of dressings involving prescription medications and/or aseptic techniques; and (11-1-98)T

f. Treatment of extensive decubitus ulcers or other widespread skin disorders; and (11-1-98)T

g. Heat treatments which have been specifically ordered by a physician as part of treatment and which require observation by nurses to adequately evaluate the resident's progress; and (11-1-98)T

h. Initial phases of a regimen involving administration of oxygen. (11-1-98)T

04. Direct Skilled Rehabilitative Services. Services which qualify as direct skilled rehabilitative services include the following: (11-1-98)T

a. Assessment. Ongoing assessment of rehabilitation needs and potential, services concurrent with the management of a resident's care plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, activities of daily living, perceptual deficits, speech and language or hearing disorders; and (11-1-98)T

b. Therapeutic exercise. Therapeutic exercises or activities which, because of the type of exercises employed or the condition of the resident, must be performed by or under the supervision of a qualified physical therapist or occupational therapist to ensure the safety of the resident and the effectiveness of the treatment; and (11-1-98)T

c. Evaluation and training. Gait evaluation and training furnished by a physical or occupational therapist to restore function in a resident whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality; and (11-1-98)T

d. Ultrasound, short-wave, and microwave therapies. Ultrasound, short-wave, and microwave therapy treatments by a licensed physical therapist; and (11-1-98)T

e. Other treatment and modalities. Hot pack, hydroculator, infrared treatments, paraffin baths, and whirlpool, in cases where the resident's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications, and the skills, knowledge, and judgement of a licensed physical therapist are required. (11-1-98)T

508. -- 519. (RESERVED).

520. ANNUAL UTILIZATION CONTROL REVIEW.

Title XIX recipients in a NF are subject to an on-site review by Regional Nurse Reviewers within ninety (90) days of the date of medical entitlement, and in one (1) year after medical entitlement to determine the need for continued NF care. Reviews will be conducted each calendar quarter on selected Title XIX recipients and other residents mandated by PASARR. (11-1-98)T

521. QUARTERLY REVIEWS.
Selection of Recipients/Residents to Be Reviewed Each Quarter: (11-1-98)T

01. Ninety (90) Day Review. Recipients to be reviewed within ninety (90) days of date of initial medical entitlement; and (11-1-98)T

02. Annual Review. Recipients whose medical entitlement one (1) year anniversary date falls within the quarter; and (11-1-98)T

03. Level II Residents. Recipients/residents who have a Level II evaluation, with an admission anniversary date that falls within the quarter; and (11-1-98)T

04. Special Medicaid Rate. Recipients who are receiving services that require a special Medicaid rate; and (11-1-98)T

05. Selected Recertification. Recipients identified during previous reviews whose improvement may remove the need for continuing NF care. (11-1-98)T

522. -- 599. (RESERVED).

600. DETERMINATION OF ENTITLEMENT FOR MEDICAID ICF/MR PAYMENT.
Applications for Medicaid payment of an individual with mental retardation, or related condition, in an ICF/MR will be through a State's Access Unit Team comprised of the Access Unit Staff, and RMU Nurse Reviewer. All required information necessary for a medical entitlement determination, including DDC's recommendation for placement and services, must be submitted to the Regional Medicaid Unit before a determination and approval for payment is made. The effective date of Medicaid payment will be no earlier than the physician's signed and dated certification for ICF/MR level of care. (11-1-98)T

601. INFORMATION REQUIRED FOR DETERMINATION.
Required information includes a medical evaluation, an initial plan of care, social evaluation, psychological evaluation, and initial plan of care by ICF/MR. (11-1-98)T

01. Medical Evaluation. A complete medical evaluation, current within ninety (90) days of admission, signed and dated by the physician, an electronic physician's signature is permissible, which includes: (11-1-98)T

a. Diagnosis (primary and secondary); (11-1-98)T

b. Medical findings and history; (11-1-98)T

c. Mental and physical functional capacity; (11-1-98)T

d. Prognosis; mobility status; and (11-1-98)T

e. A statement by the physician certifying the level of care needed as ICF/MR for a specific recipient. (11-1-98)T

02. Initial Plan of Care by Physicians. An initial plan of care, current within ninety (90) days of admission and signed and dated by the physician which includes: (11-1-98)T

a. Orders for medications and treatments; (11-1-98)T

b. Diet; and (11-1-98)T

c. Professional rehabilitative and restorative services and special procedures, where appropriate. (11-1-98)T

03. Social Evaluation. A social evaluation, current within ninety (90) days of admission, which includes: (11-1-98)T

a. Condition at birth; (11-1-98)T

b. Age at onset of condition; (11-1-98)T

c. Summary of functional status, e.g. skills level, ADLs; and (11-1-98)T

d. Family social information. (11-1-98)T

04. Psychological Evaluation. A psychological evaluation conducted by a psychologist current within ninety (90) days of admission, which includes: (11-1-98)T

a. Diagnosis; (11-1-98)T

b. Summary of developmental findings. Instead of a psychological, infants under three (3) years of age may be evaluated by a developmental disability specialist utilizing the developmental milestones congruent with the age of the infant; (11-1-98)T

c. Mental and physical functioning capacity; and (11-1-98)T

d. Recommendation concerning placement and primary need for active treatment. (11-1-98)T

05. Initial Plan of Care by ICF/MR. An initial plan of care developed by the admitting ICF/MR. (11-1-98)T

602. -- 609. (RESERVED).

610. CRITERIA FOR DETERMINING ICF/MR LEVEL OF CARE.

To meet Title XIX entitlement for intermediate care for persons with mental retardation (ICF/MR level of care), and be eligible for services provided in an Intermediate Care Facility for the Mentally retarded (ICF/MR), or receive services under one of Idaho's programs to assist individuals with mental retardation or a related condition to avoid institutionalization in an ICF/MR. (11-1-98)T

01. Diagnosis. Persons must be financially eligible for Medicaid; must have a primary diagnosis of mental retardation or have a related condition defined in Section 66-402, Idaho Code; and persons must qualify based on functional assessment, maladaptive behavior, a combination of both, or medical condition. (11-1-98)T

02. Active Treatment. Persons living in an ICF/MR, must require and receive intensive inpatient active treatment as defined in Subsection 181.10, to advance or maintain his functional level; or (11-1-98)T

03. Must Require Certain Level of Care. Persons living in the community must require the level of care provided in an ICF/MR, including active treatment, and in the absence of available intensive alternative services in the community, would require institutionalization in the near future; (11-1-98)T

04. Care for a Child. The department may provide Medicaid to a child (eighteen (18) years of age or younger), who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution, if the Department determines that the child requires the level of care provided in an ICF/MR, NF, or hospital. (11-1-98)T

611. INDIVIDUALS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

Individuals who have mental retardation or a related condition as defined in Section 66-402, Idaho Code, must be determined to need the consistent, intense, frequent services including active treatment provided in an ICF/MR as indicated in Sections 612 through 615. (11-1-98)T

612. CRITERION 1 - FUNCTIONAL LIMITATIONS.

01. Persons Sixteen Years of Age or Older. Persons (sixteen (16) years of age or older) may qualify based on their functional skills. Persons with an age equivalency composite score of seven (7) years and zero (0) months or less on a full scale functional assessment (Woodcock Johnson Scales of Independent Behavior, or SIB-R, or subsequent revisions) would qualify; or (11-1-98)T

02. Persons Under Sixteen Years of Age. Persons (under sixteen (16) years of age) qualify if their composite full scale functional age equivalency is less than forty-four percent (44%) of their chronological age; or (11-1-98)T

613. CRITERION 2 - MALADAPTIVE BEHAVIOR.

01. A Minus Twenty-two (-22) or Below Score. Individuals may qualify for ICF/MR level of care based on maladaptive behavior. Persons will be eligible if their General Maladaptive Index on the Woodcock Johnson Scales of Independent Behavior or SIB-R or subsequent revision is minus twenty-two (-22) or less; or (11-1-98)T

02. Above A Minus Twenty-two (-22) Score. Individuals who score above minus twenty-two (-22) qualify for ICF/MR level of care if they endanger themselves by engaging in self-abusive behaviors that are life threatening or that lead to permanent disfigurement, or endanger others by engaging in aggressive acts that qualify as a felony if they have the capacity to stand trial; or (11-1-98)T

614. CRITERION 3 - COMBINATION FUNCTIONAL/MALADAPTIVE BEHAVIORS.
Persons may qualify for ICF/MR level of care if they display a combination of Criterion 1 and 2 at a level that is significant and it can been determined they are in need of the level of services provided in an ICF/MR, including active treatment services. Significance would be defined as: (11-1-98)T

01. Persons Sixteen Years of Age or Older. For persons sixteen (16) years of age or older, an overall age equivalency that falls between seven (7) and seven and one half (7 1/2) years inclusive is significant in the area of functionality when combined with a General Maladaptive Index on the Woodcock Johnson SIB between minus seventeen (-17), minus twenty-two (-22) inclusive; or (11-1-98)T

02. Persons Under Sixteen Years of Age. For persons under sixteen (16) years of age, an overall age equivalency between forty-four percent (44%) and forty-seven percent (47%) of their chronological age is considered significant when combined with a General Maladaptive Index on the Woodcock Johnson SIB between minus seventeen (-17), and minus twenty-two (-22) inclusive; or (11-1-98)T

615. CRITERION 4 - MEDICAL CONDITION.
Individuals may meet ICF/MR level of care based on their medical condition if the medical condition significantly affects their functional level/capabilities and it can be determined that they are in need of the level of services provided in an ICF/MR, including active treatment services. (11-1-98)T

616. -- 629. (RESERVED).

630. CHANGE IN ELIGIBILITY - ICF/MR.
Annual and subsequent redeterminations. Persons not meeting ICF/MR level of care after redetermination, will lose Medicaid payment for services on the date specified by the RMU or Access unit. (11-1-98)T

01. Transitioning to a Less Restrictive Environment. Persons living in an ICF/MR shall be transitioned to a less restrictive environment as soon as possible after the determination that the recipient does not meet ICF/MR level of care. (11-1-98)T

02. Home Care for Certain Disabled Children (HCDC). Persons receiving HCDC Medicaid services through ICF/MR eligibility, will receive services until the end of the month in which the redetermination was made. These individuals must receive ten (10) days notification of termination of services. If the redetermination is made less than ten (10) days from the end of the month, payment continues until the end of the following month. (11-1-98)T

03. Developmentally Disabled Waiver. Individuals receiving Developmentally Disabled waiver services will have thirty (30) days from the time of the determination to transition to other community supports. (11-1-98)T

631. -- 649. (RESERVED).

650. DEFINITION OF MENTAL RETARDATION OR RELATED CONDITION.
Defined in Section 66-402, Idaho Code. (11-1-98)T

651. ACTIVE TREATMENT.
Active treatment, as used in these rules, is the continuous participation, during all waking hours, by an individual in an aggressive, consistently implemented program of specialized and generic training, treatment, health and related services, and provided in accordance with a treatment plan developed by an interdisciplinary team and monitored by a Qualified Mental Retardation Professional (QMRP) directed toward: the acquisition of the behaviors necessary for the resident to function with as much self-determination and independence as possible; or the prevention or deceleration of regression or loss of current functional status. (11-1-98)T

652. SERVICE AND ACTIVITIES NOT CONSIDERED ACTIVE TREATMENT.
Active treatment does not include: parenting activities directed toward the acquisition of age-appropriate developmental milestones; services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program or services; interventions that address age-appropriate limitations; or general supervision of children who's age is such that such supervision is required by all children of the same age. (11-1-98)T

653. DETERMINATION OF NEED FOR ACTIVE TREATMENT.
The following criteria/components will be utilized when evaluating the need for active treatment: (11-1-98)T

01. Evaluation. Complete medical, social, and psychological evaluations. These evaluations must clearly indicate the functional level of the recipient and the interventions needed; and (11-1-98)T

02. Plan of Care. A written plan of care which sets forth initial goals and objectives, specifies further evaluations to be done, and training programs to be developed. (11-1-98)T

654. RECERTIFICATION FOR ICF/MR LEVEL OF CARE.
A physician or physician's assistant or nurse practitioner must recertify the resident's continuing need for ICF/MR placement by written, signed, and dated documentation in the resident's medical record. Documentation will consist of the completion of a recertification statement on the "Recertification of Care" HW0209 and/or the entry of all required information on the physician's order sheet. Such documentation shall be accomplished no later than every three hundred sixty-five (365) days from the most recent such certification. (11-1-98)T

655. ANNUAL RECERTIFICATION REQUIREMENT.
It is the responsibility of the ICF/MR to assure that the recertification is accomplished by the physician, physician's assistant or nurse practitioner no later than every three hundred sixty-five (365) days. Should the Medicaid Program receive a financial penalty from the Department of Health and Human Services due to the lack of appropriate recertification on the part of an ICF/MR, then such amount of money will be withheld from facility payments for services provided to Medicaid recipients. For audit purposes, such financial losses are not reimbursable as a reasonable cost of patient care. Such losses cannot be made the financial responsibility of the Department's client. (11-1-98)T

656. -- 659. (RESERVED).

660. LEVEL OF CARE CHANGE.
If during an on-site review of a resident's medical record and an interview with or observation of the resident an IOC/UC reviewer determines there is a change in the resident's status and the resident no longer meets criteria for NF or ICF/MR care, the tentative decision is: (11-1-98)T

01. Discussed. Discussed with the facility administrator and/or the director of nursing services; (11-1-98)T

02. Physician Notified. The patient's/resident's physician is notified of the tentative decision; (11-1-98)T

03. Submitted for Final Decision. The case is submitted to the Regional Review Committee for a final decision; and (11-1-98)T

04. Effective Date of Loss of Payment. The effective date of loss of payment will be no earlier than ten (10) days following the date of mailing of notice to the recipient by the Eligibility Examiner. (11-1-98)T

661. APPEAL OF DETERMINATIONS.

The resident or his representative may appeal the decisions as set forth in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 000, et seq., and Section 301, "Rules Governing Contested Cases and Declaratory Rulings". (11-1-98)T

662. REGIONAL REVIEW COMMITTEE.

A committee established in each region to provide thorough and impartial reviews and final determinations on cases submitted by the Regional Medicaid Unit which includes: A resident's continued medical entitlement to NF or ICF/MR care that is no longer recommended by the Regional Nurse Reviewer; applications for medical entitlement where the level of care, client safety, or the effectiveness of care appears to be questionable; and all denial decisions recommended by the Regional Nurse Reviewer. (11-1-98)T

01. Termination of Payment. The Committee may continue, terminate the client's Medicaid payments, or recommend a supplemental on-site visit by the Regional Nurse Reviewer if it is deemed necessary; (11-1-98)T

02. Review of Denial of Payment. No review of a denial of payment is required of the Committee when the denial is based on the level of care determination by the attending physician, i.e. the physician documents that the applicant/recipient does not require NF or ICF/MR level of care. (11-1-98)T

03. Regional Review Committee. The Regional Review Committee shall be composed of the following: (11-1-98)T

a. A consultant physician; and (11-1-98)T

b. Two (2) registered nurses; and (11-1-98)T

c. A social worker when necessary; and (11-1-98)T

d. A qualified mental retardation professional (QMRP) or a qualified mental health professional (QMHP) when necessary; and (11-1-98)T

e. When appropriate, other health and human service personnel responsible to the Department as employees or consultants. (11-1-98)T

663. SUPPLEMENTAL ON-SITE VISIT.

The Regional Nurse Reviewer(s) may conduct UC supplemental on-site visits in a NF, or IOC supplemental on-site visits in an ICF/MR when indicated. Some indications may be: (11-1-98)T

01. Follow-up Activities; (11-1-98)T

02. A Verification of a Recipient's Appropriateness of Placement and/or Services; and (11-1-98)T

03. Conduct Complaint Investigations at the Department's Request. (11-1-98)T

664. -- 995. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9809

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

October 19, 1998, 7 p.m. to 9 p.m.
Boise State University
Student Union Bldg., Hatch A Ballroom
700 University Drive, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The summary of this action is found in Idaho Administrative Bulletin Volume 98-8, dated August 5, 1998, pages 71 through 83.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Lorraine Hutton at, 364-1835.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9810

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The Medical Assistance rules IDAPA 16.03.09.014 have been in effect since June 1, 1994 and have not been amended since that time. The second 1915b waiver renewal request will be submitted to HCFA in the near future including the updating of the services exempted from the referral process. These rules changes also clarify current processes that have streamlined the program. Also included in this rule packet is an amendment to IDAPA 16.03.09.110.03 which confirms that one screening mammography per calendar year for women age forty or older does not require a referral or order from the Medicaid eligible's primary care physician.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jan Cheever at, (208)364-1889.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9810

014. COORDINATED CARE.

01. Establishment. The Department may, in its discretion, and in consultation with local communities, organize and develop area specific plans as part of a coordinated care program. (6-1-94)

a. Flexibility. Since community needs and resources differ from area to area, the Department will maintain the flexibility to design plans which are consistent with local needs and resources. (6-1-94)

b. Waiver Programs. Plans may be either voluntary, or mandatory pursuant to waiver(s) granted by the Health Care Financing Administration. Some plans may start as voluntary and subsequently become mandatory. (6-1-94)

c. Models. It is anticipated that coordinated care will be accomplished principally through primary care case management. However, capitated plans may also be utilized. (6-1-94)

d. Purpose. The purposes of coordinated care are to: (6-1-94)

i. Ensure needed access to health care; (6-1-94)

ii. Provide health education; (6-1-94)

iii. Promote continuity of care; (6-1-94)

iv. Strengthen the patient/physician relationship; and (6-1-94)

v. Achieve cost efficiencies. (6-1-94)

02. Definitions. For purposes of this section, unless the context clearly requires otherwise, the following words and terms shall have the following meanings: (6-1-94)

a. "Clinic" means two (2) or more qualified medical professionals who provide services jointly through an organization for which an individual is given authority to act on its behalf. It also includes Federally Qualified Health Centers (FQHCs) and Certified Rural Health Clinics. (6-1-94)

b. "Coordinated care" is the provision of health care services through a single point of entry for the purposes of managing patient care with an emphasis on preventative and primary care and reducing inappropriate utilization of services and resulting costs. This is sometimes referred to as "managed care". (6-1-94)

c. "Covered services" means those medical services and supplies for which reimbursement is available under the state plan. (6-1-94)

d. "Emergency care" means the immediate services required for the treatment of a condition for which a delay in treatment could result in death or permanent impairment of health. (6-1-94)

e. "Grievance" means the formal process by which problems and complaints related to coordinated care are addressed and resolved. Grievance decisions may be appealed as provided herein. (6-1-94)

f. "Non-exempt services" means those covered services which require a referral from the primary care provider. It includes all services except those that are specifically exempted. (6-1-94)

g. "Outside services" means non-exempt covered services provided by other than the primary care provider. (6-1-94)

h. "Patient/recipient" means any patient who is eligible for medical assistance and for which a provider seeks reimbursement from the Department. (6-1-94)

i. "Plan" means the area specific provisions, requirements and procedures related to the coordinated

care program. (6-1-94)

j. "Primary care case management" means the process in which a physician is responsible for direct care of a patient, and for coordinating and controlling access to or initiating and/or supervising other health care services needed by the patient. (6-1-94)

k. "Qualified medical professional" means a duly licensed physician in the following specialties: Pediatrics, Internal Medicine, Family Practice, General Practice, General Surgery, Obstetrics/Gynecology, or a physician in any other specialty who chooses to assume the function of primary care case management. It also includes nurse practitioners, and physician assistants. Licenses must be held in the state(s) where services are being rendered. (6-1-94)

l. "Referral" means the process by which patient/recipients gain access to non-exempt covered services not provided by the primary care provider. It is the authorization for non-exempt outside services. (6-1-94)

m. "Waiver" means the authorization obtained from the Health Care Financing Administration to impose various mandatory requirements related to coordinated care as provided in Sections 1915(b) and 1115 of the Social Security Act. (6-1-94)

03. Primary Care Case Management. Under this model of coordinated care, each patient/recipient obtains medical services through a single primary care provider. This provider either provides the needed service, or arranges for non-exempt services by referral. This management function neither reduces nor expands the scope of covered services. (6-1-94)

a. Referrals. The primary care provider is responsible for making all reasonable efforts to monitor and manage the patient/recipient's care, providing primary care services, and making referrals for outside services when medically necessary. All outside services not specifically exempted require a referral. Outside services provided without a referral will not be paid. All referrals shall be documented in recipient's patient record. (6-1-94)

b. Exempted Services. All services are subject to primary care case management unless specifically exempted. The following services are exempt: family planning services, emergency care (as defined by the Department for the purpose of payment and performed in an emergency department), dental care (performed in the office), Podiatry (performed in the office), Audiology (hearing tests/screening, does not include ear/nose/throat services), Optical/Ophthalmology/Optometrist services (performed in the office), chiropractic (performed in the office), pharmacy (prescription drugs only), nursing home, ICF/MR services, and childhood immunizations. (not requiring an office visit), flu shots and/or pneumococcal vaccine (not requiring an office visit), diagnosis and/or treatment for sexually transmitted diseases, one screening mammography per calendar year for women age forty (40) or older, and Indian Health Clinic/638 Clinic services provided to individuals eligible for Indian Health Services, and in-home services known as Personal Care Services. The Department may change the services that require a referral after appropriate notification of Medicaid eligible individuals and providers. (6-1-94)(10-1-98)T

04. Participation. (6-1-94)

a. Provider Participation. (6-1-94)

i. Qualifications. Primary care case management services may be provided by qualified medical professionals, licensed to practice in the state where services are being rendered. (6-1-94)

ii. Conditions and Restrictions. (6-1-94)

(1) Quality of Services. Provider shall maintain and provide services in accordance with community standards of care. Provider shall exercise his/her best efforts to effectively control utilization of services. Providers must provide twenty-four (24) hour coverage by telephone to assure patient/recipient access to services. (6-1-94)

(2) Provider Agreements. Providers participating in primary care case management must sign an agreement. Clinics may sign an agreement on behalf of their qualified medical professionals. (6-1-94)

(3) Patient Limits. Providers may limit the number of patient/recipients they wish to manage. Subject to this limit, the provider must accept all patient/recipients who either elect or are assigned to provider, unless disenrolled in accordance with the next Subsection. Providers may change their limit effective the first day of any month by written request thirty (30) days prior to the effective date of change. Requirement maybe waived by the Department. ~~(6-1-94)~~(10-1-98)T

(4) Disenrollment. Instances may arise where the provider/patient relationship breaks down due to failure of the patient to follow the plan of care or for other reasons. Accordingly, a provider may choose to withdraw as patient/recipient's primary care provider effective the first day of any month by written notice to the patient/recipient and the Department thirty (30) days prior to the date of withdrawal. This advance notice requirement may be waived by the Department. (6-1-94)

(5) Record Retention. Providers must retain patient and financial records and provide the Department or its agent access to those records for a minimum of five (5) years from the date of service. Upon the reassignment of a patient/recipient to another provider, the provider must transfer (if a request is made) a copy of the patient's medical record to the new provider. Provider must also disclose information required by Subsection 040.01 of this chapter, when applicable. (6-1-94)

(6) Termination or Amendment of Provider Agreements. The Department may terminate a provider's agreement as provided in Subsection 040.03 of this chapter. An agreement may be amended for the same reasons. (6-1-94)

iii. Payment. Providers will be paid a case management fee for primary care case management services in an amount determined by the Department. The fee will be based on the number of patient/recipients enrolled under the provider on the first day of each month. For providers reimbursed based on costs, such as Federally Qualified Health Centers and Rural Health Clinics, the case management fee is considered one hundred percent (100%) of the reasonable costs of an ambulatory service. (6-1-94)

b. Recipient Participation. (6-1-94)

i. Enrollment. (6-1-94)

(1) Voluntary Programs. In voluntary plans, the patient/recipient will be given an opportunity to choose a primary care provider. If the patient/recipient is unable to choose a provider but wishes to participate in the plan, a provider will be assigned by the Department. If a voluntary plan subsequently becomes mandatory, provider selection/assignment will remain unchanged where possible. (6-1-94)

(2) Mandatory Programs. In mandatory plans, a provider will be assigned if the patient/recipient fails to choose a participating provider after given the opportunity to do so. Members of the same family do not have to choose the same provider. All patient/recipients in the plan area are required to participate in the plan unless individually granted an exception. Exceptions from participation in mandatory plans are available for patient/recipients who: (6-1-94)

(a) Have to travel more than thirty (30) miles, or thirty (30) minutes to obtain primary care services; (6-1-94)

(b) Have an eligibility period that is less than three (3) months; (6-1-94)

(c) Live in an area excluded from the waiver; (6-1-94)

(d) Have an eligibility period that is only retroactive; ~~or~~ ~~(6-1-94)~~(10-1-98)T

(e) Are eligible only as ~~medically needy.~~ Qualified Medicare Beneficiary; ~~(6-1-94)~~(10-1-98)T

(f) Have an existing relationship with a primary care physician or clinic who is not participating with the Healthy Connections; or (10-1-98)T

(g) Has incompatible third party liability. (10-1-98)T

ii. Changing Providers. If a patient/recipient is dissatisfied with his/her provider, he/she may change providers effective the first day of any month by ~~requesting~~ contacting their designated Healthy Connections Representative to do so ~~in writing~~ no later than fifteen (15) days in advance. This advance notice requirement may be waived by the Department. ~~(6-1-94)~~(10-1-98)T

iii. Changing Service Areas. Patient/recipients enrolled in a plan cannot obtain non-exempt services without a referral from their primary care provider. Patient/recipients who move from the area where they are enrolled must disenroll in the same manner as provided in the preceding paragraph for changing providers, and may obtain a referral from their primary care provider pending the transfer. Such referrals are valid not to exceed thirty (30) days. (6-1-94)

05. Problem Resolution. (6-1-94)

a. Intent. To help assure the success of coordinated care, the Department intends to provide a mechanism for timely and personal attention to problems and complaints related to the program. (6-1-94)

b. Local Program Representative. To facilitate problem resolution, each area will have a designated representative ~~at the local or regional level~~ who will receive and attempt to resolve all complaints and problems related to the plan and function as a liaison between patient/recipients and providers. It is anticipated that most problems and complaints will be resolved informally at this level. ~~(6-1-94)~~(10-1-98)T

c. Registering a Complaint. Both patient/recipients and providers may register a complaint or notify the Department of a problem related to the coordinated care plan either by writing or telephoning the local program representative. ~~All problems and complaints received will be logged.~~ The health representative will attempt to resolve conflicts and disputes whenever possible and refer the complainant to alternative forums where appropriate. ~~(6-1-94)~~(10-01-98)T

d. Grievance. If a patient/recipient or provider is not satisfied with the resolution of a problem or complaint addressed by the program representative, he may file a formal grievance in writing to the representative. The ~~representative~~ manager of the managed care program may, where appropriate, refer the matter to a review committee designated by the Department to address issues such as quality of care or medical necessity. However, such decisions are not binding on the Department. The Department will respond in writing to grievances within thirty (30) days of receipt. ~~(6-1-94)~~(10-1-98)T

e. Appeal. Decisions in response to grievances may be appealed. Appeals by patient/recipients are considered as fair hearings and appeals by providers as contested cases under the Rules Governing Contested Case Proceedings and Declaratory Rulings, IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings," and must be filed in accordance with the provisions of that chapter. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

110. LABORATORY AND RADIOLOGY SERVICES.

01. Qualifications. Laboratories in a physician's office or a physician's group practice association, except when physicians personally perform their own patients' laboratory tests, must be certified by the Idaho Bureau of Laboratories and be eligible for Medicare certification for participation. All other Idaho laboratories must fulfill these requirements. (2-15-86)

02. Payment Procedures. Payment for laboratory tests can only be made to the actual provider of that service. An exception to the preceding is made in the case of an independent laboratory that can bill for a reference laboratory. A physician is not an independent laboratory. (2-15-86)

a. The payment level for clinical diagnostic laboratory tests performed by or personally supervised by a physician will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be a rate established by the Department. (2-15-86)

b. The payment level for clinical diagnostic laboratory tests performed by an independent laboratory will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department. (2-15-86)

c. The payment level for clinical diagnostic laboratory tests performed by a hospital laboratory for anyone who is not an inpatient will be at a rate established by the Department that is no higher than Medicare's fee schedule as described in Section 085. The payment level for other laboratory tests will be at a rate established by the Department. (12-31-91)

d. Collection fees for specimens drawn by veinpuncture or catheterization are payable only to the physician or laboratory who draws the specimen. (2-15-86)

03. Mammography Services. Idaho Medicaid will cover screening or diagnostic mammographies performed with mammography equipment and staff which is considered certifiable or certified by the Bureau of Laboratories. (7-1-98)

a. Screening mammographies will be limited to one (1) per calendar year for women who are forty (40) or more years of age. ~~No physician's referral or orders are required except for clients enrolled in Healthy Connections.~~ ~~(7-1-98)~~(10-1-98)T

b. Diagnostic mammographies will be covered when a physician orders the procedure for a patient of any age who is at high risk. (7-1-98)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.20 - RULES GOVERNING ELECTRONIC BENEFITS TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS

DOCKET NO. 16-0320-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Removes reference to Refugee Cash Assistance. The Department discontinues managing this program on October 1, 1998.

Allows the participant an additional 30 days to request reactivation of a state Temporary Assistance of Families in Idaho EBT account.

Removes policies on conversion from coupons to Food Stamp EBT benefits. Statewide conversion is complete.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0320-9801

030. ABBREVIATIONS.

01. AABD. Aid to the Aged, Blind, and Disabled. (7-1-98)

02. ACH. Automated Clearing House. (7-1-98)

03. ATM. Automated Teller Machine. (7-1-98)

04. EBT. Electronic Benefit Transfer. (7-1-98)

05. PIN. Personal Identification Number. (7-1-98)

06. POS. Point of Sale. (7-1-98)

~~07. RCA. Refugee Cash Assistance. (7-1-98)~~

0~~8~~7. SSI. Supplemental Security Income. (7-1-98)

0~~9~~8. TAFI. Temporary Assistance for Families in Idaho. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

130. CLOSURE OF STALE BENEFIT ACCOUNTS.
Stale accounts will be closed. The participant may lose claim to the benefits depending on specific program policy. Stale benefit accounts will be closed according to the time lines listed in Subsections 130.01 through 130.0~~3~~2. ~~(7-1-98)~~(10-1-98)T

~~01. TAFI Benefit Account. A TAFI benefit account will be closed when the account becomes a stale account. (7-1-98)~~

0~~2~~1. AABD or ~~RCA~~ TAFI Benefit Account. An AABD or ~~RCA~~ TAFI benefit account will be closed if the participant does not request reactivation during the thirty (30) day period beginning with the day the account becomes stale. ~~(7-1-98)~~(10-1-98)T

0~~3~~2. Food Stamp Benefit Account. A Food Stamp benefit account will be closed if the participant does not request reactivation during the one hundred and eighty (180) day period beginning with the day the account becomes stale. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

140. CONVERSION OF FOOD STAMP BENEFIT ACCOUNT BALANCES.
A participant moving from an EBT area must be able to convert his electronic benefits for use in a non-EBT area. The participant shall have all unused electronic Food Stamp benefits converted to a cash benefit account. ~~Up to three (3) benefit conversions per year will be allowed for temporary absences from the EBT area. Benefit conversion is not allowed solely for shopping convenience of a participant who is not absent from his home.~~ ~~(7-1-98)~~(10-1-98)T

~~**141. FOOD STAMP BENEFIT CONVERSIONS BETWEEN SEPTEMBER 1, 1997 AND STATEWIDE**~~

~~**IMPLEMENTATION OF EBT.**~~
~~A participant requiring a conversion during the period starting September 1, 1997 and before statewide implementation of EBT will have his electronic Food Stamp benefits converted to Food Stamp coupons. The Department shall round EBT benefits remaining in a benefit account down to the nearest dollar amount suitable for coupon issuance. The participant may access any remaining balance of less than two dollars ($2) in their EBT account for food purchases within one (1) week after conversion occurs. The EBT account will be closed seven (7) days after conversion and unused benefits will be returned to the Department. (7-1-98)~~

~~**142. FOOD STAMP BENEFIT CONVERSIONS AFTER STATEWIDE IMPLEMENTATION.**~~
~~A participant requiring Food Stamp benefit conversion after statewide implementation of EBT shall have all unused electronic Food Stamp benefits converted to a cash benefit account. (7-1-98)~~

14~~3~~1. -- 199. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.02 - IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES

DOCKET NO. 16-0402-9801

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective July 1, 1998. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 62-610, 56-901, 56-902 and 56-904, Idaho Code.

DESCRIPTIVE SUMMARY: The proposed rules have been amended to make transcriptional and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the July 1, 1998 Administrative Bulletin, Volume 98-7, pages 133 through 137.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 04
Chapter 02

IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 133 through 137.

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature
for final adoption.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0402-9801

004. PURPOSE.
The purpose of these rules is to establish requirements of the Idaho Telecommunication Service Assistance ~~Service~~ Program (ITSAP) as authorized by Sections 62-610, 56-901, 56-902, 56-903, and 56-904 of the Idaho Code. ITSAP shall maximize federal "lifeline" and "link-up" contributions to Idaho's low income customers. ~~(7-1-98)T~~(7-1-98)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-9802

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Department of Health and Welfare (Department) and is now pending review by the 1999 Idaho State Legislature for final approval. In May 1998, the Department adopted this rule as a temporary rule, which is currently effective. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-fifth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Department has adopted a pending rule. The action is authorized by Section 39-106, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 138 through 147. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Sue Richards at (208)373-0502.

Dated this 7th day of October, 1998.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

IDAPA 16
TITLE 05
Chapter 01

RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 138 through 147.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM FOR CHILD CARE

DOCKET NO. 16-0612-9701

NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 39-105(l), 39-106 (l)(a), 56-202(b), 56-203(b) and 56-204(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

The proposed docket, 16-0612-9701, is being vacated and the changes are being incorporated into the re-write of the entire chapter under Docket No. 16-0612-9802.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Patti Campbell at, (208) 334-5819.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM FOR CHILD CARE

DOCKET NO. 16-0612-9701

NOTICE OF RECISION OF TEMPORARY RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 39-105(l), 39-106(l)(a), 56-202(b), 56-203(b) and 56-204(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for rescinding this docket.

The temporary docket, 16-0612-9701, is being rescinded and they are being incorporated into the re-write of the entire chapter under Docket No. 16-0612-9802.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Patti Campbell, at (208) 334-5819.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM FOR CHILD CARE

DOCKET NO. 16-0612-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The entire chapter is being repealed and re-written in rule Docket No. 16-0612-9802.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

As a result of Welfare reform, the Department has been involved in an extensive review of Department program rules. Final Federal Regulations implementing Public Law 104-193 were published July 24, 1998. To ensure that the Idaho Child Care Program effectively supports families self reliance, the Department is proposing to modify the IDAPA 16.06.12 to comply with new Federal Regulations and to incorporate changes which will align the Idaho Child Care Program with the Department's philosophy of self reliance.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at, (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 28, 1998.

DATED this 7th day of October, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0612-9802

IDAPA 16
TITLE 06
Chapter 12

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)

000. LEGAL AUTHORITY.

The Idaho Department of Health and Welfare, according to Sections 56-201 through 56-233, Idaho Code, is authorized to adopt the following rules for the administration of public assistance programs. (10-1-98)T

001. TITLE AND SCOPE.

01. Title. These rules are known and will be cited as IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)". (10-1-98)T

02. Scope. These rules provide standards for determining eligibility and issuing child care payments. (10-1-98)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (10-1-98)T.

003. ADMINISTRATIVE APPEALS.

Appeals are governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 300, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (10-1-98)T

004. DEFINITIONS.

The following definitions apply to this chapter: (10-1-98)T

01. Caretaker. The person responsible for the care of a child. (10-1-98)T

02. Child Support Income. Any payment made by an absent parent designated to be used for the children. (10-1-98)T

03. Child(ren). All children under eighteen (18), if they are related to the parent or caretaker as specified above. Children over eighteen (18) or older, if claimed on tax returns as a dependent by the child's caretaker relative or parent. (10-1-98)T

04. Department. The Idaho Department of Health and Welfare. (10-1-98)T

05. Earned Income. Gross income received by a person as wages, tips, or self-employment income before deductions for taxes or any other purposes. (10-1-98)T

06. Employment. A job paying wages or salary, including work paid by commission, or in-kind compensation. Full or part-time participation in a VISTA program is also considered employment. (10-1-98)T

07. Foster Care. Twenty-four (24) hour parental care provided for a child by a family, arranged through a private or public agency. (10-1-98)T

08. Foster Child. A child placed for twenty-four (24) hour care by a private or public agency. (10-1-98)T

09. Fraud. Obtaining or attempting to obtain ICCP services for which one is not eligible or in an amount to which not entitled by means of a willfully false statement or representation, or other fraudulent device. (10-1-98)T

10. Good Cause. The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (10-1-98)T

11. In Loco Parentis. Assuming care and custody of a child by an individual not related to the child. (10-1-98)T

12. Job Training and Education Program. A program recognized as a job training or education program. Programs include high school, junior college, community college, college, general equivalency diploma (GED), technical school, and vocational programs. To qualify, the program must prepare the trainee for employment. (10-1-98)T

13. Loan. Debt having a signed repayment agreement. (10-1-98)T

14. Local Market Rate for Child Care. Payment of child care set at the seventy-fifth percentile of the range of costs for child care in a specific area. The rate is adjusted for the age of the child, the region, and the type of child care facility. The local market rate establishes the maximum amount payable by ICCP. (10-1-98)T

15. Mediation. Process to resolve disputes between providers of child care services and parents or caretakers of children receiving child care. (10-1-98)T

16. Minor Parent. Parent under the age of eighteen (18). The minor parent is not considered a child for the purpose of determining eligibility for child care assistance. (10-1-98)T

17. Non-Recurring Lump Sum Income. Income received by a family in a single payment, not expected to be available to the family again. (10-1-98)T

18. Non-Related Caretaker. A person who is not related to an eligible child, who is acting in loco parentis. (10-1-98)T

19. Parent or Guardian. Persons legally responsible for child(ren) because of birth, adoption or legal guardianship. (10-1-98)T

20. Prospective Income. Income a family expects to receive within a given time. This can be earned or unearned income. (10-1-98)T

21. Provider. An individual, organization, agency, or other entity providing child care. (10-1-98)T

22. Resources. Money or items that can be converted to money that can be used for family care. (10-1-98)T

23. Satisfactory Progress. A standard of progress which a participant must meet in an educational or training program. Standards are established by each individual program and must include both qualitative and quantitative measures of progress. (10-1-98)T

24. Special Needs. Any child with physical, mental, emotional, behavioral disabilities, or developmental delays identified on an individual education plan or an Individualized Family Service Plan. (10-1-98)T

25. Step-Parent. A person married to the child's parent who has no biological or adoptive relationship to the child. (10-1-98)T

26. Unearned Income. Income other than employment or self-employment. Unearned income includes retirements, interest, and rental income. Money received when a resource is liquidated is unearned income during the month in which it is received. (10-1-98)T

005. ABBREVIATIONS.
The following abbreviations apply to this chapter: (10-1-98)T

01. GED. General Equivalency Diploma. (10-1-98)T

02. ICCP. Idaho Child Care Program. (10-1-98)T

03. PRC. Personal Responsibility Contract. (10-1-98)T

04. SSI. Supplemental Security Income. (10-1-98)T

05. TAFI. Temporary Assistance for Families in Idaho. (10-1-98)T

006. -- 049. (RESERVED).

050. APPLICATION.
A written application must be completed and signed by the caretaker and received by the Department. The date of the application is the date received by the Department. The caretaker shall be notified, in writing, of the approval or denial of the application and the right to appeal, if applicable. (10-1-98)T

051. EFFECTIVE DATE.
An eligible caretaker shall receive child care payments from the first day of the month of application. (10-1-98)T

052. -- 056. (RESERVED).

057. PARENTAL CHOICE.
Eligible parents or caretakers may choose among all types of available child care. (10-1-98)T

058. -- 099. (RESERVED).

100. ELIGIBILITY FOR CHILD CARE ASSISTANCE.
Families must meet the following conditions of eligibility before child care assistance is provided. (10-1-98)T

101. RESIDENCY.
The family must live in the state of Idaho, and have no immediate intention of leaving. (10-1-98)T

102. CITIZENSHIP AND ALIENAGE.
At least one (1) child must meet the citizenship and alienage requirements for the family to be eligible for child care assistance. Any child eligible for payment must be a citizen or an alien admitted to the United States for permanent residence, or lawfully living in the United States. (10-1-98)T

103. SOCIAL SECURITY NUMBERS (SSN).
Social Security Numbers for all household members shall be provided unless good cause is established. (10-1-98)T

104. FAMILY COMPOSITION.
A family is a group of individuals living in a common residence, whose income and resources are considered in determining eligibility and payment amount, and who may be included in the family size. Married spouses living together in a common residence are considered a family. Adult relatives who reside together are considered separate families. Unrelated families living in a common residence are considered separate families. Persons living in the home who are claimed as tax dependents are considered members of the family. All persons meeting the family criteria must be included in the family size. No individual may be considered a member of more than one (1) family in the same month. (10-1-98)T

105. ELIGIBLE CHILD.
A family must have at least one (1) eligible child. A child is eligible under the conditions listed in Subsections 105.01 through 105.04. (10-1-98)T

01. Immunizations. Eligible pre-school children must obtain immunizations according to the Department's schedule of immunizations, unless there is a religious or other exemption, or immunization would endanger the life or health of a child. Child care payments can continue during a reasonable period necessary to comply with immunization standards. Immunization records must be reviewed annually. (10-1-98)T

02. Under Age Thirteen (13). A child whose care is being paid must be under the age of thirteen (13); or (10-1-98)T

03. Age Thirteen (13) through Eighteen (18). A child age thirteen (13) or older must meet one (1) of the criteria listed in Subsections 105.03.a. through 105.03b. (10-1-98)T

a. Children may receive child care benefits until the month of their eighteenth birthday if they are physically or mentally incapable of self-care, as verified by a professional third party. (10-1-98)T

b. Children may receive child care benefits until the month of their eighteenth birthday if a court order, probation contract, child protection or mental health case plan requires constant supervision. (10-1-98)T

04. Age Eighteen (18) and Over. Children who qualify under Subsection 106.03 may receive child care benefits until the month of their nineteenth birthday if they are full-time students and are expected to complete secondary school no later than the month of their nineteenth birthday. (10-1-98)T

106. -- 107. (RESERVED).

108. QUALIFYING ACTIVITIES FOR CHILD CARE.

To be eligible for child care payments, a family must require child care for one (1) of the reasons listed in Subsections 108.01 through 108.04. (10-1-98)T

01. Child Care Needed for Employment. For the caretaker to seek, accept, or maintain employment. (10-1-98)T

02. Child Care Needed for Training or Education. For the caretaker to attend an education or training program. Persons with baccalaureate degrees or who are attending post-baccalaureate classes will not qualify for child care assistance. Satisfactory progress in the program must be maintained in order to continue to receive benefits. (10-1-98)T

03. Child Care Needed for Preventive Services. To permit families to participate in treatment services designed to reduce or eliminate the need for protective intervention. Family and Children's Services must provide verification of continued need, at least every three (3) months, for the family to continue to be eligible for payment. (10-1-98)T

04. Activities Negotiated Between the Department and Participant. For the caretaker to complete Personal Responsibility Contract activities negotiated between the Department and the participant. (10-1-98)T

109. INCAPACITATED PARENT.

An incapacitated parent, unable to adequately care for the children in a two (2) parent family, is not required to have qualifying activities, as long as the other parent is participating in qualifying activities. (10-1-98)T

110. INTERIM CHILD CARE PAYMENT.

If child care arrangements would otherwise be lost, child care may be paid under conditions listed in Subsections 110.01 and 110.02. (10-1-98)T

01. Employment to Begin. If employment or education is scheduled to begin within two (2) weeks. (10-1-98)T

02. Break in Employment. During a break in employment or education of one (1) month or less. (10-1-98)T

111. -- 199. (RESERVED).

200. INCOME LIMIT.
A family's income must be less than the published OMB guidelines for one hundred fifty percent (150%) of poverty for a family of the same size. (10-1-98)T

201. COUNTABLE INCOME.
All gross earned and unearned income is counted in determining eligibility and payment amount, unless specifically excluded by rule. (10-1-98)T

202. EXCLUDED INCOME.
The following is not counted as family income. (10-1-98)T

01. Earned Income of a Dependent Child. Income earned by a dependent child under age eighteen (18) is not counted unless the child is a parent. (10-1-98)T

02. Income Received for Person Not Residing With the Family. Income received on behalf of a person not living in the home is excluded. (10-1-98)T

03. Education Funds. All educational funds including grants, scholarships, an Americorps Education Award, and federal and state work study income. (10-1-98)T

04. Assistance. Assistance to meet a specific need from other organizations and agencies is not counted as income. (10-1-98)T

05. Lump Sum Income. Non-recurring or lump-sum income is not counted as income if: (10-1-98)T

a. Income was used to pay medical bills resulting from accident or injury. (10-1-98)T

b. Income was used to pay funeral or burial costs. (10-1-98)T

c. When the amount of lump-sum income minus exclusions exceeds the maximum income listed in the Sliding Fee Schedule, the family will be ineligible to receive benefits. The period of ineligibility will be computed by dividing the lump-sum payment into the maximum qualifying income for that family. In no case will the period of ineligibility exceed twelve (12) months. (10-1-98)T

06. Loans. Loans with written, signed repayment agreements are not counted as income. (10-1-98)T

07. TAFI and AABD Benefits. TAFI and AABD benefits are excluded. (10-1-98)T

08. Foster Care Payments. Foster care payments are excluded as income. (10-1-98)T

09. VISTA Volunteers. Living allowances and stipends paid to VISTA volunteers under P.L. 93-113, Title IV, Section 404(g) are excluded as income. (10-1-98)T

10. Income Tax Refunds/Earned Income Tax Credits. Income tax refunds and earned income tax credits even if received with their wages are excluded as income. (10-1-98)T

11. Travel Reimbursements. Reimbursements from employers for work related travel are excluded from income. (10-1-98)T

12. Tribal Income. Income received from a tribe for any purpose other than direct wages are excluded from income. (10-1-98)T

13. Foster Parents Income. Income may be excluded based on need, on a case by case basis, for foster parents when determining eligibility and sliding fee scale amounts for children in the custody of the Department. Income is counted when determining eligibility and sliding fee scale amounts for the foster parent’s biological

child(ren). (10-1-98)T

14. Adoption Assistance. Adoption assistance payments. (10-1-98)T

203. SELF-EMPLOYMENT INCOME.
Gross self-employment income, less fifty percent (50%) for business expenses, is counted as family income. (10-1-98)T

204. -- 249. (RESERVED).

250. CHILD CARE PROVIDER LICENSING.
All providers of child care receiving a Department subsidy must be licensed or must comply with applicable State Day Care licensing requirements under Title 39, Chapter 11, Idaho Code, with local licensing ordinances, or with tribal ordinances. If both state statutes and ordinances apply to a provider, the provider must comply with the stricter requirement. A provider operating outside Idaho must comply with the licensing laws of his state or locality. (10-1-98)T

251. HEALTH AND SAFETY REQUIREMENTS.
All providers must submit a written statement, on a form provided by the Department, that they comply with the health and safety requirements listed in Subsections 251.01 through 251.13. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. The health and safety requirements do not apply to a child care provider who is eighteen (18) years of age or older who provides child care services only to eligible children who are, by marriage, blood relationship, or court decree the grandchild, great-grand child, niece, or nephew, or sibling of such provider. (10-1-98)T

01. Age of Provider. All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (10-1-98)T

02. Sanitary Food Preparation. Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (10-1-98)T

03. Food Storage. All food served in child care facilities must be stored to protect it from potential contamination. (10-1-98)T

04. Hazardous Substances. Medicines, cleaning supplies, and other hazardous substances must be stored out of the reach of children. (10-1-98)T

05. Emergency Communication. A telephone or some type of emergency communication system is required. (10-1-98)T

06. Policies and Procedures. Providers shall provide written policies and procedures which include payment collection policies, discipline policies, medication policies, and evacuation policies, with the self-declaration form. (10-1-98)T

07. Provider Reading. Providers must read information provided to them on control of infectious diseases, immunizations, and other health and safety issues. (10-1-98)T

08. Smoke Detectors, Fire Extinguisher and Exits. A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (10-1-98)T

09. Child Activities. Appropriate play and educational materials to help stimulate child development shall be accessible to the children on a daily basis on the premises. (10-1-98)T

10. Hand Washing. Each provider shall wash his hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (10-1-98)T

11. CPR/First Aid. Providers shall insure that at all times children are present at least one (1) adult on the premises has current certification in pediatric rescue breathing and first aid treatment from a certified instructor. (10-1-98)T

12. Health of Provider. Each provider shall certify that he/she does not have any physical or psychological condition that might pose a threat to the safety of a child in his/her care. (10-1-98)T

13. Child Abuse. Providers must report suspected child abuse to the appropriate authority. (10-1-98)T

252. CHILD CARE PROVIDER REGISTRATION.
All providers shall register with the Department through the resource and referral contractor and be entered in the child care provider vendor system before any child care is paid. (10-1-98)T

253. -- 254. (RESERVED).

255. CONVICTION OR WITHHELD JUDGMENT.
Child care providers must certify that they have not been convicted or received a withheld judgment, for any of the following crimes: homicide, kidnaping, arson, assault and battery, or sexual abuse of a child. A self-declaration must be signed by each provider, attesting he has not been convicted or received a withheld judgment for any of the above listed crimes, including the following: a sex crime as defined in Chapter 66, Title 18, Idaho Code, or any similar provision in another jurisdiction; rape as defined in Chapter 61, Title 18, Idaho Code, or any similar provision in another jurisdiction; injuring a child as defined in Section 18-1501, Idaho Code, or any similar provision in another jurisdiction; selling or bartering a child as defined in Section 18-1511, Idaho Code, or any similar provision in another jurisdiction; sexually abusing a child as defined in Section 18-1506, Idaho Code, or any similar provision in another jurisdiction; sexually exploiting a child as defined in Section 18-1507, Idaho Code, or any similar provision in another jurisdiction. (10-1-98)T

256. PURVIEW OF CHILD PROTECTION ACT OR JUVENILE JUSTICE REFORM ACT.
Providers must certify that they are not, through stipulation or adjudication, under the purview of the Child Protection Act, Section 16-1600, Idaho Code, or the Juvenile Corrections Act, Section 20-501 through 20-547, Idaho Code. Any provider who has an adjudicated valid child protection complaint cannot be an eligible provider. (10-1-98)T

257. PARENT OR CARETAKER ACCESS TO CHILD CARE PREMISES.
Providers serving families who receive a child care subsidy shall allow parents or caretakers unlimited access to their children and to persons giving care, except that access to children will not be required if prohibited by court order. (10-1-98)T

258. -- 300. (RESERVED).

301. ALLOWABLE CHILD CARE COSTS.
Care provided to an eligible child by an eligible provider is payable subject to the following conditions: (10-1-98)T

01. Payment for Employment, Seeking Employment, Training, Education, or Preventive Service Hours. Child care must be reasonably related to the hours of the qualifying activities. Travel time is included in determining qualifying activities. (10-1-98)T

02. Family Member not Payable. A parent, guardian or member of the family as defined in Section 105 may not be paid for providing child care to that child. (10-1-98)T

03. Person Living at Same Address not Payable. Child care provided by any person living at the same address as the family will not be paid. (10-1-98)T

04. One-Time Registration Fees. One-time fees for registering a child in a child care facility are

payable, if the fee is charged to all who enroll in the facility. Fees may not exceed usual and customary charges. Registration fees are separate from local market rates. (10-1-98)T

302. REPORTING REQUIREMENTS.
Families applying for or receiving child care benefits shall report within ten (10) days the changes listed in Subsections 302.01 through 302.05. (10-1-98)T

01. Provider Charges. The rates charged for child care services changes. (10-1-98)T

02. Provider. A child is taken to another child care provider. (10-1-98)T

03. Activity. Type or hours of qualifying activity changes. (10-1-98)T

04. Income. The amount of hours or a permanent rate change. (10-1-98)T

05. Change of Address. There is a change of address for either the participant or the provider. (10-1-98)T

303. -- 304. (RESERVED).

305. AMOUNT OF PAYMENT.
Child Care payments will be based on Subsections 305.01 through 305.04. (10-1-98)T

01. Payment Rate. Payment will be based on the lower of the actual cost of child care, or the local market rate. (10-1-98)T

a. The local market rate will be set at the seventy-fifth percentile of the range of child care charges for that type of care. The rates will be established from a survey of providers of child care. (10-1-98)T

b. Each Region has a separate local market rate. Payment rates will be determined by the location of the child care facility. (10-1-98)T

c. If the child care facility is not in Idaho, the local market rate will be the rate where the family lives. (10-1-98)T

d. The rate survey will be conducted at least every two (2) years. (10-1-98)T

02. Usual and Customary Rates. Rates charged by the child care provider must not exceed usual and customary rates charged to all families. (10-1-98)T

03. In-Home Care. Parents are responsible to pay persons providing care in the child's home the minimum wage, as required by the Fair Labor Standards Act (29 U.S.C. 206a) and other applicable state and federal requirements. Department payments must not exceed the lower of the hourly wage or actual cost of care. Care provided in the home of the child will be paid only when four (4) or more children are eligible and receiving payments. Fewer than four (4) children will receive payment for in-home care only when one (1) of the following special circumstances is met: (10-1-98)T

a. Parents' or caretakers' activity occurs during times when out-of-home care is not available; or (10-1-98)T

b. The family lives in an area where out-of-home care is not available; or (10-1-98)T

c. A child has a verified illness or disability which would place the child or other children in an out-of-home facility at risk. (10-1-98)T

04. Two-Party Warrants. Checks will be issued to eligible families by means of a warrant which requires endorsement by both the caretaker and the provider. One-party warrants will be issued only in the following

circumstances: (10-1-98)T

a. When a provider is no longer in the area, and there is verification that the provider has been paid for child care, a one-party warrant can be issued to the caretaker. (10-1-98)T

b. When the family has left the area, the family can request that a one-party warrant be issued to the provider. (10-1-98)T

c. When the family has left the area and cannot be located, the provider may provide verification that child care payment has not been made, and a one-party check may be issued to the provider. (10-1-98)T

d. When a family is suspected of fraud, and the provider has been designated to be payee for the family. (10-1-98)T

306. (RESERVED).

307. SLIDING FEE SCHEDULES.

Eligible families, except TAFI families participating in non-employment TAFI activities, must pay part of their child care costs. (10-1-98)T

01. Poverty Rates. Poverty rates will be the established rates published annually in the Federal Register. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (10-1-98)T

02. Calculating Family Payment. Families shall pay the provider for child care services. Family income for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate, less the amount calculated using the sliding fee schedule listed in Table 307.03. (10-1-98)T

03. Maximum Income and Sliding Fee Schedules:

TABLE 307.03 - FAMILY CO-PAYMENT REQUIREMENTS									
THE DEPARTMENT SLIDING FEE SCHEDULE EFFECTIVE 9-1-97									
FAMILY SIZE	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
MONTHLY INCOME	**PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY**								
$0 - $499	1%	1%	1%	1%	1%	1%	1%	1%	1%
$500 - $599	5%	1%	1%	1%	1%	1%	1%	1%	1%
$600 - $699	5%	5%	1%	1%	1%	1%	1%	1%	1%
$700 - $799	5%	5%	5%	1%	1%	1%	1%	1%	1%
$800 - $899	15%	5%	5%	5%	1%	1%	1%	1%	1%
$900 - $999	15%	5%	5%	5%	5%	1%	1%	1%	1%
$1,000 - $1,099	**+15%**	5%	5%	5%	5%	1%	1%	1%	1%
$1,100 - $1,199	30%	15%	5%	5%	5%	5%	1%	1%	1%
$1,200 - $1,299	30%	15%	5%	5%	5%	5%	5%	1%	1%
$1,300 - $1,399	60%	**+15%**	15%	5%	5%	5%	5%	5%	1%
$1,400 - $1,499	100%	30%	15%	5%	5%	5%	5%	5%	1%
$1,500 - $1,599	100%	30%	**+15%**	15%	5%	5%	5%	5%	5%

TABLE 307.03 - FAMILY CO-PAYMENT REQUIREMENTS									
THE DEPARTMENT SLIDING FEE SCHEDULE EFFECTIVE 9-1-97									
FAMILY SIZE	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
MONTHLY INCOME	**PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY**								
$1,600 - $1,699	100%	60%	30%	15%	5%	5%	5%	5%	5%
$1,700 - $1,799	100%	100%	30%	**+15%**	15%	5%	5%	5%	5%
$1,800 - $1,899	100%	100%	30%	15%	15%	5%	5%	5%	5%
$1,900 - $1,999	100%	100%	30%	30%	**+15%**	5%	5%	5%	5%
$2,000 - $2,099	100%	100%	60%	30%	15%	15%	5%	5%	5%
$2,100 - $2,199	100%	100%	100%	30%	15%	15%	5%	5%	5%
$2,200 - $2,299	100%	100%	100%	30%	15%	**+15%**	15%	5%	5%
$2,300 - $2,399	100%	100%	100%	60%	30%	15%	15%	5%	5%
$2,400 - $2,499	100%	100%	100%	100%	30%	15%	**+15%**	15%	5%
$2,500 - $2,599	100%	100%	100%	100%	30%	15%	15%	15%	5%
$2,600 - $2,699	100%	100%	100%	100%	60%	30%	15%	**+15%**	15%
$2,700 - $2,799	100%	100%	100%	100%	100%	30%	15%	15%	15%
$2,800 - $2,899	100%	100%	100%	100%	100%	30%	15%	15%	**+15%**
$2,900 - $2,999	100%	100%	100%	100%	100%	30%	30%	15%	15%
$3,000 - $3,099	100%	100%	100%	100%	100%	60%	30%	15%	15%
$3,100 - $3,199	100%	100%	100%	100%	100%	100%	30%	30%	15%
$3,200 - $3,299	100%	100%	100%	100%	100%	100%	30%	30%	15%
$3,300 - $3,399	100%	100%	100%	100%	100%	100%	60%	30%	15%
$3,400 - $3,499	100%	100%	100%	100%	100%	100%	100%	30%	30%
$3,500 - $3,599	100%	100%	100%	100%	100%	100%	100%	30%	30%
$3,600 - $3,699	100%	100%	100%	100%	100%	100%	100%	30%	30%
$3,700 - $3,799	100%	100%	100%	100%	100%	100%	100%	60%	30%
$3,800 - $3,899	100%	100%	100%	100%	100%	100%	100%	100%	30%
$3,900 - $3,999	100%	100%	100%	100%	100%	100%	100%	100%	30%
$4,000 - $4,099	100%	100%	100%	100%	100%	100%	100%	100%	60%
$4,100 - $4,199	100%	100%	100%	100%	100%	100%	100%	100%	100%

TABLE 307.03 - FAMILY CO-PAYMENT REQUIREMENTS									
THE DEPARTMENT SLIDING FEE SCHEDULE EFFECTIVE 9-1-97									
FAMILY SIZE	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
MONTHLY INCOME	**PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY**								
*Maximum income for THE DEPARTMENT benefits: • $1,326 for household of 2 • $1,667 for household of 3 • $2,007 for household of 4 • $2,346 for household of 5 • $2,687 for household of 6 • $3,027 for household of 7 • $3,366 for household of 8 • $3,706 for household of 9 • $4,047 for household of 10									

Maximum Income (Or Eligibility For Payment) Based On 150% Of Poverty (1997 Poverty Tables) (10-1-98)T

308. REDETERMINATION.
Eligibility must be redetermined at least every six (6) months. (10-1-98)T

309. COMPLAINT PROCEDURE.
The Department shall maintain a record of substantiated parental complaints. Information regarding substantiated parental complaints shall be made available to the public on request, in accordance with the Idaho Public Records Act. (10-1-98)T

310. (RESERVED).

311. DISALLOWED PAYMENTS.
Child care will not be paid if any condition listed in Subsections 311.01 through 311.07 exists. The Department will not disallow payments if the family fails to pay late fees or fails to pay advance notice of intention to leave fees. (10-1-98)T

01. Provider Not Paid. The provider has not been paid for allowable child care expenses, including co-payments and amounts above the Local Market Rate. (10-1-98)T

02. Satisfactory Payment Arrangements Not Made. The participant has not made satisfactory payment arrangements as determined by the Department. (10-1-98)T

03. Income Exceeds Limit. The income of the family exceeds program limits. (10-1-98)T

04. Child Care Provider Not Eligible. The provider of the child care does not meet requirements. (10-1-98)T

05. Qualifying Activity Stopped. The child's caretaker(s) is no longer participating in work, training, education, job search or preventive service activities which qualify the family for child care benefits. (10-1-98)T

06. Child Not Eligible. The child is no longer eligible. (10-1-98)T

07. Repayment Default. The family has failed to repay an overpayment according to the signed repayment schedule either with the Department or a provider. (10-1-98)T

312. OVERPAYMENTS AND RECOVERY.
Overpayments may occur for child care services as the result of agency error, family or provider error, Intentional Program Violations (IPV), or fraud as established by a judicial or administrative determination as described in Section 56-227, Idaho Code. Recovery of overpayments based on agency error may be pursued where the overpayment is one hundred dollars ($100), or more. Overpayments due to IPV or fraud must be recovered in full. The Department will determine overpayments. Repayments will be negotiated with the Department. Failure to comply with the negotiated repayment agreement will result in disqualification of the family. (10-1-98)T

313. INTENTIONAL PROGRAM VIOLATIONS (IPV).
An IPV is an intentionally false or misleading action or statement made to establish or maintain eligibility. The Department investigates and refers appropriate cases for IPV determination, which may include a referral for prosecution of fraud. An IPV will be established when a family member or the child care provider admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court does not issue a determination of guilt because the accused family member or child care provider meets the terms of a court order or an agreement with the prosecutor. When an IPV determination has been made, the entire family or the child care provider is ineligible for the period of time listed in Subsections 313.01 through 313.03. (10-1-98)T

01. First Offense. Twelve (12) months for the first IPV or fraud offense, or the length of time specified by the court. (10-1-98)T

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. (10-1-98)T

03. Third Offense. Permanent disqualification for the third or subsequent IPV or fraud offense, or the length of time specified by the court. (10-1-98)T

314. UNDERPAYMENT.
Supplemental payment shall be made to a family entitled to an additional payment. (10-1-98)T

315. (RESERVED).

316. FUNDING RESTRICTIONS.

317. CONFIDENTIALITY.
Information received by ICCP from families is subject to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing Protection and Disclosure of Department Records". (10-1-98)T

318. -- 999. (RESERVED).

Subject Index

A

A Lawful Finding 105
A Minus Twenty-two (-22) or Below Score 247
A Verification of a Recipient's Appropriateness of Placement and/or Services 249
AABD 120, 258
AABD CASH OVERPAYMENT 157
AABD CASH UNDERPAYMENT 157
AABD Cash 119
AABD Cash and Participant Required to Apply for SSI 121
AABD Criteria 170, 171
AABD ELIGIBILITY IN INELIGIBLE INSTITUTIONS 125
AABD FOR THE AGED 126
AABD FOR THE DISABLED 126
AABD Resource Limit 170, 171
AABD Status 126
AABD or TAFI Benefit Account 258
AB 120
ABBREVIATIONS 120, 258, 269
ACCELERATED LIFE INSURANCE INCOME 144
ACH 258
ACTIVE TREATMENT 248
ADDITIONAL QROC OVERSIGHT PROCEDURES FOR NON-SECPS AND PCPS ADMINISTERING ORGANIZATIONS 24
ADMINISTERING ORGANIZATIONS 23
ADMINISTRATIVE APPEAL 77
ADMINISTRATIVE APPEALS 53, 67, 108, 119, 267
ADMINISTRATIVE FEES 57
ADMINISTRATIVE LICENSE ACTION 105
ADOPTION ASSISTANCE UNDER TITLE IV-B OR TITLE XX 136
ADOPTION OF NASAA STATEMENT OF POLICY 63
ADULT RESIDENTIAL CARE AND ADULT FOSTER CARE HOME ASSESSMENT AND LEVEL OF CARE 153
ADVANCE NOTICE NOT REQUIRED 156
ADVANCE NOTICE RESPONSIBILITY 156
ADVANCED LIFE SUPPORT TRANSFER STANDARDS 103
AFA 120
AFDC 186
AGENT ORANGE SETTLEMENT FUND PAYMENTS 136
AGENT ORANGE SETTLEMENT PAYMENTS 132
ALASKA NATIVE CLAIMS SETTLEMENT ACT 132, 136
ALIMONY, SPOUSAL, AND ADULT SUPPORT 143
ALLOWABLE CHILD CARE COSTS 273
ALS DESIGNATION CATEGORIES 105
AMOUNT OF PAYMENT 274
ANNUAL RECERTIFICATION REQUIREMENT 248
APPEAL OF DETERMINATIONS 249
APPEAL OF SSA DECISION - APPLICANT DETERMINED SSI ELIGIBLE AFTER APPEAL 170
APPEAL OF SSA DECISION AND CONTINUED MEDICAID 170
APPLIANCE PLUMBING SPECIALITY LICENSE 46
APPLICANT ONE-TIME CASH PAYMENT ELIGIBILITY CRITERIA 202
APPLICATION 269
APPLICATION FOR ASSISTANCE 121
APPLICATION FOR POTENTIAL BENEFITS 134
APPLICATIONS FOR MEDICAID 122
APTD 120
ASSESSMENT DATE AND COUNTING FSI RESOURCES 166
ASSET TRANSFER FOR LESS THAN FAIR MARKET VALUE 175
ASSET TRANSFER LOOK- BACK 175
ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AND THIRD PARTY LIABILITY 111
ASSISTANCE BASED ON NEED (ABON) 136
ASSISTANCE TO CUBAN/HAITIAN ENTRANTS 189
ASVI 120
ATM 258
AT-RISK ELIGIBILITY CRITERIA 203
AT-RISK SERVICES 203
AUSTRIAN SOCIAL INSURANCE PAYMENTS 132, 136
AWARDS 144
Above A Minus Twenty-two (-22) Score 247
Active Treatment 246
Activities Negotiated Between the Department and Participant 270
Activity 274
Administrative License Action 103, 104, 105
Administrator 53
Admission to a Nursing Facility 232
Adoption Assistance 201, 272
Adult Protection and Ombudsman Coordination 97
Advanced Emergency Medical Technician-Ambulance(AEMT-A) 98
Advanced Life Support (ALS) 99
Advertise 99
Advertising 71, 141, 143
Age 170, 171, 172, 173
Age Eighteen (18) and Over 270
Age Thirteen (13) through Eighteen (18) 270
Age and Disability 174
Age of Provider 272
Agency 99
Agent Orange 202
Agreement 202
Aid in Another State 156
Ambulance 99
Ambulance-Based Clinicians 99
Amendment, Suspension, or Revocation of the LPC Registration 37
An ALS Level I 105
An ALS Level II 105
An ALS Level III 105
An ALS Level IV 105
And Such Other Entities 23
Annual Inspection of Care Review 240
Annual Limit 171
Annual Recommendation 24
Annual Review 245

Annual Utilization Control Review 237, 244
Any Conduct, Action, or Conviction 105
Any Conduct, Condition, or Circumstance 106
Any Violation 105
Appeal of Determinations 241
Applicant 119
Application Information 109
Application Pending Revocation 109
Application for a Mortgage Loan From a Prospective Borrower 74
Applications 81
Applications Prior to Expiration 65
Applications for Specialty Licenses 47, 48
Applied On or After January 1, 1991 173
Applied before July 1, 1988 173
Appropriate Care 171
Approved PASS 155
Assessment 243
Assessment Process Approved by the Department 228
Assessment of Alleged Victim 96
Assets Returned 180
Assign Their Medical Support Rights 114
Assistance 271
Asylees 124
Authorization of Services 228
Automated Check Writing Systems 70
Automatic Eligibility 195

B

BASIC ALLOWANCE 152
BEHAVIOR CONSULTATION/CRISIS MANAGEMENT 227
BIA ADULT CUSTODIAL CARE (ACC) AND CHILD WELFARE ASSISTANCE (CWA) PAYMENTS 144
BLACK LUNG BENEFITS 143
BLIND OR DISABLED STUDENT CHILD EARNED INCOME 137
BLINDNESS WORK EXPENSE DISREGARD 155
BORROWERS UNABLE TO OBTAIN LOANS 74
BUREAU OF INDIAN AFFAIRS (BIA) FOSTER CARE 137
BUREAU OF INDIAN AFFAIRS GENERAL ASSISTANCE (BIA GA) 144
BURIAL FUNDS EXCLUDED FROM RESOURCE LIMIT 129
BURIAL SPACE OR PLOT EXCLUSION 129
BUY-IN REIMBURSEMENT 137
Battered Non-Citizen Admitted Before August 22, 1996 123
Battered Non-Citizen Admitted On or After August 22, 1996 123
Behavior Consultation/Crisis Management Service Providers 231
Behavior Shaping and Management 225
Benefit of Spouse 180
Birds of Prey 79
Blind Pools 65
Blind Work Expense Limit 155
Board 99
Bona Fide Pet Store 77
Break in Employment 270
Burial Space Contract 130
Business Transportation 141

C

CALCULATING THE PENALTY PERIOD 175
CASE RECORD INFORMATION 198
CASH TO PURCHASE MEDICAL OR SOCIAL SERVICES 132
CERTAIN DISABLED CHILDREN 170
CERTAIN DISABLED WIDOWS AND WIDOWERS THROUGH JUNE 30, 1988 173
CHANGE IN CIRCUMSTANCES 168
CHANGE IN ELIGIBILITY - ICF/MR 247
CHANGE IN VALUE OF RESOURCES 127
CHANGES AFFECTING ELIGIBILITY OR AABD CASH AMOUNT 157
CHECKING, TESTING AND EXAMINING OF DEVICES, PACKAGES AND LABELS 27
CHILD CARE PROVIDER LICENSING 272
CHILD CARE PROVIDER REGISTRATION 273
CHILD SUBJECT TO DEEMING 175
CHILD SUPPORT COOPERATION 158
CHILD SUPPORT PAYMENTS 143
CHOICE OF SSI OR CP METHODS 168
CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD 164
CHOOSING FSI, SSI, OR CP PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD 165
CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD 164
CITIZENSHIP AND ALIENAGE 269
CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT 123
CLINIC SERVICES -- MENTAL HEALTH CLINICS 212
CLOSURE AFTER REVIEW OF GOOD CAUSE REQUEST 158
CLOSURE OF STALE BENEFIT ACCOUNTS 258
CM Provider Agency Qualifications 220
CM Provider Staff Qualifications 220
COLA 120
COMMODITIES, FOOD STAMPS AND FOOD PROGRAMS 137
COMMUNITY PROPERTY (CP) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE 168
COMMUNITY SERVICE BLOCK GRANTS 144
COMMUNITY SPOUSE RESOURCE ALLOWANCE 167
COMPLAINT PROCEDURE 277
COMPUTING SELF-EMPLOYMENT INCOME 140
CONCURRENT BENEFIT PROHIBITION 122
CONDITIONAL BENEFITS 133
CONDITIONS FOR TEMPORARY AABD IN INSTITUTIONS 125
CONFIDENTIALITY 109, 183, 278

CONSERVATORSHIP 133
CONTRIBUTIONS FOR ADULT RESIDENTIAL CARE FACILITY RESIDENTS 137
CONVERSATION LOG - 3 70
CONVERSION OF FOOD STAMP BENEFIT ACCOUNT BALANCES 258
CONVERSION OR SALE OF A RESOURCE NOT INCOME 137
CONVICTION OR WITHHELD JUDGMENT 273
COOPERATION WITH CHILD SUPPORT 111
COOPERATION WITH THE QUALITY CONTROL PROCESS 111, 157
COORDINATED CARE 252
COUNTABLE INCOME 271
COUNTING RESOURCES AND INCOME 127
COUPLE BUDGETING 154
CP METHOD 168
CP METHOD INCOME DISREGARDS 169
CP METHOD NEED STANDARD 168
CP METHOD RESOURCE LIMIT 169
CPR/First Aid 273
CREDIT LIFE OR DISABILITY INSURANCE PAYMENTS 137
CRITERIA FOR DETERMINING ICF/MR LEVEL OF CARE 246
CRITERIA FOR DETERMINING NEED FOR NF CARE 243
CRITERIA FOR PROJECTING MONTHLY INCOME 135
CRITERION 1 - FUNCTIONAL LIMITATIONS 247
CRITERION 2 - MALADAPTIVE BEHAVIOR 247
CRITERION 3 - COMBINATION FUNCTIONAL/MALADAPTIVE BEHAVIORS 247
CRITERION 4 - MEDICAL CONDITION 247
CRITICAL CARE TRANSFER SERVICE STANDARDS 104
CSA 120
CSNS 120
CSRA 120
CSRA REVISION 167
Cages or Enclosures 81
Calculating Family Payment 275
Calculation of Fees 232
Care Requirement 171
Care and Services Provided 212
Care and Services not Covered 213
Care for a Child 246
Caretaker 186, 267
Caretaker Neglect 96
Cash Income 134
Certification 31, 99
Certified Personnel 99
Change of Address 274
Change of Name 65
Child 119
Child Abuse 273
Child Activities 272
Child Care Needed for Employment 270
Child Care Needed for Preventive Services 270
Child Care Needed for Training or Education 270
Child Care Provider Not Eligible 277
Child Not Eligible 277
Child Nutrition 201
Child Support 201
Child Support Income 267
Child's Earned Income 201
Child(ren) 267
Chore Service Providers 229
Citizenship and Legal Non-Citizen 203
Client Contributions 94
Commercial Fish Facility 78
Commercial Wildlife Farm 77
Community Property Income of Long-Term Care Participant With Long-Term Care Spouse 159
Community Spouse 166
Community Support Program Provider Staff Qualifications 210
Compliance With Requirements 64
Compliance with City and County Ordinances and Federal Law 80
Computerized Accounting System Requirements 70
Conditional Benefits Payments Disposal/Exclusion Period 133
Conditional Entrants 124
Conditionally Eligible 169
Conditions of Exemption 65
Conduct Complaint Investigations at the Department's Request 249
Confidentiality 97
Consecutive Penalty Periods 176
Consult with the Board 23
Contact 190
Continued Services 171
Continuous Period of Long-Term Care 166
Continuously Entitled 173
Contract Between a Licensee and a Borrower 72
Converting Income to a Monthly Amount 135
Cooperate 114
Cost of Care 171
Counting Income and Resources for Refugee Medical Assistance with a "Spend Down" 196
Counting Three (3) Full Months 126
Couple or Participant Living With Essential Person 152
Coverage Limits 174
Creation of Manufacturing or Assembling Equipment Specialty Contractor and Specialty Electrician 44
Criteria for Determining ICF/MR Care 239
Criteria for Determining Need for NF Care 236
Critical Care Transfer (CCT) 99
Currently Enrolled 22

D

DAY REHABILITATION 227
DEATH OF APPLICANT 122
DECEPTIVE ADVERTISING 71
DECREASE IN LEVEL OF CARE 154
DEDICATED ACCOUNT FOR SSI PARTICIPANT 132
DEEMING INCOME 144
DEEMING INCOME FROM ESSENTIAL PERSON TO PARTICIPANT 149
DEEMING INCOME FROM INELIGIBLE PARENT TO AABD CHILD 147
DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT 146

DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT 149
DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN - SPONSOR SIGNED I-864 AFFIDAVIT OF SUPPORT 152
DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN PARTICIPANT - NO I-864 AFFIDAVIT OF SUPPORT 150
DEEMING RESOURCES 128
DEFINITION OF TERMS AND ABBREVIATIONS 186
DEFINITIONS 53, 108, 119, 267
DEFINITIONS AND ABBREVIATIONS 98
DEPARTMENT NOTICE RESPONSIBILITY 156
DEPARTMENT OF EDUCATION SCHOLARSHIPS 137
DESIGNATION OF CLINICAL CAPABILITY 102
DETERMINATION OF ENTITLEMENT FOR MEDICAID ICF/MR PAYMENT 245
DETERMINATION OF NEED FOR ACTIVE TREATMENT 248
DHW 120
DIAGNOSTIC CRITERIA 224
DISABLED ADULT CHILD 172
DISALLOWED PAYMENTS 277
DISASTER ASSISTANCE 132, 137
DISTRIBUTION OF SUPPORT PAYMENTS 114
DIVIDENDS AND INTEREST 143
DOMESTIC VOLUNTEER SERVICE ACT PAYMENTS 137
Daily Living Skills 225
Date of Collection 114
Date of Entry 198
Day Rehabilitation Providers 231
Death of Participant 156
Deduction of Incurred Medical Expenses 196
Definition 115
Definition of Mental Retardation or Related Condition 239, 248
Definitions 252
Demonstration of Competence 30
Department 108, 119, 186, 267
Department Examination Procedures 33
Dependent Child 111, 202
Dependent Income 173
Deportation Withheld 124
Depreciation 142
Deprivation 111
Designation of Trust Account(s) 67
Determination of Need for Active Treatment 239
Determining Eligibility for Medical Assistance for Refugees Who Must Meet a "Spend Down" 196
Determining Income 94
Developmentally Disabled Waiver 248
Diagnosis 246
Direct Deposit 119
Direct Skilled Nursing Services 244
Direct Skilled Rehabilitative Services 244
Director 99
Disability Insurance Payments 201
Disability and Blindness Criteria 170
Disaster Relief 202
Discipline, Restriction, Suspension or Revocation 105
Discussed 249
Diseases of Captive Wildlife 83
Disregard of Resources 156
Dissolutions or Separations 22
Distribution Upon Termination of TAFI 114
Distribution of Amounts Collected Through Income Tax Refund Offset 114
Distribution of Assigned Medical Support 115
Distribution of Support in Open TAFI Cases 114
Division 53, 99

E

EARLY WIDOWS AND WIDOWERS BEGINNING JANUARY 1, 1991 172
EARNED INCOME 140
EARNED INCOME TAX CREDITS 138
EBT 120, 258
EFFECTIVE DATE 121, 269
EITC 120
EITC Payments 201
ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE 43
ELIGIBILITY FOR CHILD CARE ASSISTANCE 269
ELIGIBILITY FOR MEDICAID 114
ELIGIBILITY REDETERMINATION 157
ELIGIBLE CHILD 269
ELIGIBLE SSI RECIPIENT 169
ELIGIBLE TARGET GROUP 224
EMS Bureau 99
EMS Standards Manual 99
ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS 226
EQUITY VALUE OF RESOURCES 127
ESTATE IN PROBATE 126
ESTATE NOT IN PROBATE 126
EXAMINATION REQUIREMENTS 61
EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS 130
EXCLUDED INCOME 201, 271
EXCLUSIONS FROM SUPPORTED EMPLOYMENT 226
EXEMPT ENTITIES 74
EXEMPT TRUSTS 182
EXPENSE OF OBTAINING INCOME 138
EXTENDED (POSTPARTUM) MEDICAID FOR PREGNANT WOMEN 171
EXTENDED STATE PLAN SERVICES 227
EXTENSION FOR RTA TRANSFER 167
Earned Income 267
Earned Income of a Dependent Child 271
Education Funds 271
Educational Income 202
Effective Date 171
Effective Date of Burial Funds Exclusion 129
Effective Date of Eligibility 172
Effective Date of Loss of Payment 249
Effective Dates 173, 174
Effectiveness 109
Egress From Sleeping Areas 54

Elderly Nutrition 201
Electrical System Testing 54
Electronic Benefits Transfer (EBT) 119
Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical 43
Eligibility 189
Eligibility Requirements 170
Eligible Amerasian 186
Eligible If Not in Institution 169
Eligible Individual 203
Eligible Institutions 124
Eligible One (1) Month 156
Eligible Spouse 169
Eligible Target Group 217
Eligible for Long Term Care 170, 171
Emergency 99
Emergency Communication 272
Emergency Medical Condition 172
Emergency Medical Services (EMS) 99
Emergency Medical Technician- Basic(EMT-B) 100
Emergency Medical Technician-Ambulance (EMT-A) 99
Emergency Medical Technician-Paramedic (EMT-P) 100
Employment 267
Employment to Begin 270
Entrant 186
Entrant Immigration Status 189
Environmental Modifications Service Providers 230
Essential Person 120
Essential Property in Current Use 131
Establishment 252
Establishment of Trust Account for Borrower Funds to Pay Third-Party Providers 67
Evaluation 248
Evaluation and Diagnostic Services 213
Examinations for Specialty Licenses 47, 48
Exception to Fair Market Value 181
Excluded Services 210
Excluded as a Personal Residence 228
Exemption Timing 65
Expected Income 135
Extended Medicaid 197
Extended State Plan Service Providers 231
Extended State Plan Services 227
Extensions 22

F

FACTORS MAKING PROPERTY A RESOURCE 127
FAIR HEARING ON CSA DECISION 163
FAMILY COMPOSITION 269
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAMS 144
FEDERAL HOUSING ASSISTANCE 138
FEDERAL SPOUSAL IMPOVERISHMENT (FSI) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE 166
FEE FOR APPROVAL OF ADMINISTERING ORGANIZATIONS 23
FEES AND CLIENT CONTRIBUTIONS 94
FINANCIAL CONDITION 74
FINANCIAL NEED AND AABD CASH AMOUNT 152
FMA 120
FOSTER CARE PAYMENTS 138
FRAUDULENT MISREPRESENTATION OF RESIDENCY 127
FSI 120
FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR 127, 175
FULLY EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS 130
FUNDING RESTRICTIONS 278
Face Value of Burial Insurance Policies Not Counted 129
Failure To Maintain Standards of Knowledge and/or Proficiency 105
Failure To Provide Records 109
Falsification of Applications or Reports 106
Family Member not Payable 273
Federal Financial Participation (FFP) 226
Fee Based on Actual Cost 94
Fee Required 94
Fee Waived 94
Fee for Services 232
Fees 47, 48
Financially Responsible Relatives 196
First Month in Institution 125
First Offense 278
First Responder 100
Fish Eggs 79
Fish Legally Taken 78
Follow-up Activities 249
Food Programs 201
Food Stamp Benefit Account 258
Food Storage 272
Form 108
Foster Care 201, 267
Foster Care Payments 271
Foster Child 122, 267
Foster Parents Income 271
Fraud 267
Fraud Victim 181
Frequency 21

G

GARNISHMENTS 138
GED 269
GERMAN REPARATIONS 138
GERMAN REPARATIONS PAYMENTS 132
GIFTS 144
GIFTS OF DOMESTIC TRAVEL TICKETS 137
GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS 115
GOOD CAUSE FOR NOT COOPERATING 205
GOOD CAUSE FOR NOT COOPERATING IN SECURING MEDICAL AND CHILD SUPPORT 158
GOVERNMENT MEDICAL OR SOCIAL SERVICES 138
GRANDFATHERED SSI RECIPIENT 170
GRANTS, SCHOLARSHIPS, AND FELLOWSHIPS 137
GROUP HEALTH PLAN ENROLLMENT 111
GROUP HEALTH PLAN ENROLLMENT REQUIREMENT 158
Game Bird 78
Gas Furnace and Water Heater Com-

partment Protection 54
Gas System Testing 54
General 80
Getting RSDI in August 1972 169
Good Cause 115, 268
Good Cause for Not Making Efforts to Sell Excess Property 134
Grandfathered Participant for Aid to The Permanently and Totally Disabled (APTD) or Aid to the Blind (AB) 127
Grant Limited Power of Attorney 114
Grounds For Revocation 109
Guide Dog Food 153

H

HABILITATION SERVICES 224
HCBS 120
HCBS Income Limit 171
HEALTH AND SAFETY REQUIREMENTS 272
HHS 186
HOME AND COMMUNITY BASED WAIVER RECIPIENT LIMITATIONS 233
HOME DELIVERED MEALS 227
HOME ENERGY ASSISTANCE (HEA) AND SUPPORT AND MAINTENANCE ASSISTANCE (SMA) 139
HOME EXCLUDED AS RESOURCE 130
HOME PRODUCE FOR PERSONAL USE 139
HONORARIA 142
HOUSEHOLD FOR RESOURCE COMPUTATIONS 128
HOUSEHOLD GOODS DEFINITION 130
HUD 120
Hand Washing 273
Hazardous Substances 272
Health of Provider 273
Home Care 171
Home Care For Certain Disabled Children (HCDC) 247
Home Delivered Meal Services 230
Home Energy Assistance 201
Home to Adult Child 180
Home to Brother or Sister 180
Home to Minor Child or Disabled Adult Child 180
Home to Spouse 180
Homeless 122
Housing Act of 1949 138
Housing Act of 1959 138
Housing And Urban Development (HUD) Interest 202
Housing Subsidies 201
Housing and Urban Development Act of 1965 138
Humane Treatment 82

I

I-94 186
ICCP 269
IDENTIFICATION OF ENTRANTS 189
IDENTIFICATION OF REFUGEES 187
IDENTIFYING EXCLUDED FUNDS COMMINGLED WITH FUNDS NOT EXCLUDED 132
IEVS 121
IMPAIRMENT-RELATED WORK EXPENSE (IRWE) DISREGARD 155
IMPORT PROCEDURE 79
INA 121, 186
INCAPACITATED PARENT 270
INCOME DEFINITION 134
INCOME ELIGIBILITY FOR COMMUNITY SPOUSE 168
INCOME EXCLUDED BY LAW 139
INCOME LIMIT 271
INCOME OWNERSHIP OF PARTICIPANT WITH COMMUNITY SPOUSE 161
INCREASE IN LEVEL OF CARE 153
INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS 144
INDIVIDUALS WITH MENTAL RETARDATION OR RELATED CONDITIONS 246
INELIGIBLE NON-CITIZEN WITH EMERGENCY MEDICAL CONDITION 172
INELIGIBLE SSI RECIPIENT 169
INFORMATION REQUIRED FOR DETERMINATION - LEVEL I AND II SCREENS 243
INFORMATION REQUIRED FOR DETERMINATION - MEDICAL EVALUATION 243
INFORMATION REQUIRED FOR DETERMINATION - PLAN OF CARE 243
INFORMATION REQUIRED FOR DETERMINATION - SOCIAL INFORMATION 243
INFREQUENT OR IRREGULAR INCOME 139
INHERITANCE 133
IN-HOME SUPPORTIVE SERVICES 139
INS 186
INSPECTION OF CARE/UTILIZATION CONTROL IN LONG-TERM CARE FACILITIES 242
INSTITUTIONAL STATUS 124
INTENTIONAL PROGRAM VIOLATIONS (IPV) 278
INTERIM CHILD CARE PAYMENT 270
INVESTIGATIVE REQUIRMENTS 96
IRS 121
IRSP 186
Immunizations 270
Import, Export, Transport, or Sell Restrictions 78
Importation 79
Imposition of Civil Penalty 37
In Loco Parentis 268
In-Home Care 274
In-Kind Income 134
Incapable Participant 122
Included in the ISP 228
Income 173, 174, 274
Income Already Received 135
Income Declaration 94
Income Deeming Exclusions 145
Income Exceeds Limit 277
Income Limit 170, 203
Income Necessary for Self-Support 155
Income Not Counted 159
Income Paid at Hourly Rate 136
Income Paid in the Name of Spouse 161
Income Paid on Salary 136
Income Received Less Often than Monthly 136
Income Received for Person Not Residing With the Family 271
Income Tax Refunds/Earned Income

Tax Credits 271
Income Trust 182
Income and Resources 202
Income of Participant in Facility 160
Income of Participants in Long-Term Care 159
Individual Support Plan 233
Ineligible Child 145
Ineligible Entrants 189
Ineligible Institutions 125
Ineligible Non-Citizen Medicaid 121
Ineligible Parent 144
Ineligible Spouse 144
Information Required for Determination 235, 238, 245
Inheritances 134
Initial Plan of Care by ICF/MR 246
Initial Plan of Care by Physicians 245
Initial Settlement 198
Initiation or Pursuit of any Other Action 37
Inspection and Examination Requirements 79
Inspection of Care Reports 241
Inspections 81
Institution 169
Insurance 141, 142
Intent to Get Fair Market Value 180
Interest 141, 142
Interest Income 201
Intrastate Movement 83
Investigative Findings 96
Investment Adviser - Qualifying Officer 61
Investment Adviser Representative 61
Irrevocable Annuity 177
Irrevocable Annuity Annual Interest Test 179
Irrevocable Annuity Life Expectancy Test 177
Irrevocable Trust 181
Irrigation Sprinkler Electrical 44
Issuance of Licenses 80, 81
Issuing a Medical Card to a Refugee Who Must Meet a "Spend Down" 197

J

JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS 133, 139
JOB TRAINING PARTNERSHIP ACT (JTPA) 142
JSAP Restriction 203
Job Training and Education Program 268
Just Cause 22

L

LABORATORY AND RADIOLOGY SERVICES 255
LEGAL AUTHORITY 53, 67, 108, 119, 186, 267
LICENSED ADULT RESIDENTIAL CARE FACILITY AND ADULT FOSTER CARE HOME ALLOWANCES 153
LIFE ESTATES AND ANNUITIES AS ASSET TRANSFERS 176
LIFE INSURANCE 133
LIMIT TO NUMBER OF AT-RISK PARTICIPANTS 204
LOANS 139
LONG-TERM CARE RESIDENT AND MEDICAID 158
LOW INCOME FAMILIES WITH CHILDREN 111
Labor 141
Labor Paid to Family Member 142
Legal 141
Letter Of Registration 108
Level II Residents 245
Level of Care 156
Level of Care Change 241, 248
License Required 81
Licensed EMS Services 100
Licensed Professional Applicator 34
Licensee Enters Into a Lock-in Agreement 72
Licensee Shall Not Charge Any Fee That Inures to The Benefit of the Licensee 73
Licensing Periods and Recertification 33
Life Estate 176
Life Insurance Policy as Burial Funds 129
Limited Energy Electrical License 44
List Approved Administering Organizations 23
Living Arrangement 126
Living with a Relative 111
Loan 268
Loans 201, 271
Local Availability 27
Local Market Rate for Child Care 268
Local Unit of Government 53
Lodging 141
Long-Term Care Spouse 166
Look-Back for a Person Entitled to Medicaid 175
Look-Back for a Person Not Entitled to Medicaid 175
Loss of Farm Income 142
Lost SSI 173
Lost SSI or AABD 172
Low Income Energy Assistance 201
Lump Sum Income 271

M

MA 121
MAINTENANCE OF REGISTRATION 109
MANPOWER DEVELOPMENT AND TRAINING ACT PAYMENTS 139
MEDICAID APPLICATION 158
MEDICAID ELIGIBILITY 157
MEDICAID ELIGIBILITY FOR AABD PARTICIPANT 158
MEDICAID ELIGIBILITY OF MARRIED PERSONS 164
MEDICAID OVERPAYMENT 157
MEDICAID PENALTY FOR ASSET TRANSFERS 175
MEDICAID QUALIFYING TRUST PAYMENTS 158
MEDICAID REDETERMINATION 183
MEDICAL SUPPORT COOPERATION 158
MILITARY PENSIONS 143
MOVE FROM LICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER CARE HOME TO LIVING SITUATION OTHER THAN A NURSING HOME OR HOSPITAL 154
MOVE FROM NURSING HOME OR HOSPITAL 154
MOVE TO A LICENSED ADULT RESIDENTIAL CARE FACILITY OR ADULT FOSTER CARE HOME FROM LIVING SITUATION OTHER THAN NURSING HOME OR HOSPITAL 154
MOVE TO A LICENSED ADULT RESIDENTIAL CARE FACILI-

TY OR ADULT FOSTER CARE HOME FROM NURSING HOME OR HOSPITAL 154
MULTIPLE PENALTY PERIODS APPLIED CONSECUTIVELY 176
Maintenance 141
Mammography Services 256
Manuals 64
Marking Big Game 80
Materials 141
Maximum Income and Sliding Fee Schedules 275
Meals 141
Mediation 268
Medicaid 120
Medicaid Income Limit of Long-Term Care Resident Less Than Thirty (30) Days 159
Medicaid Income Limit of Long-Term Care Resident Thirty (30) Days or More 159
Medicaid Pending SSA Appeal 126
Medicaid Qualifying Trust 169
Medicaid for Families with Children Rules 120
Medical Assistance Rules 120
Medical Assistance with "Spend Down" 195
Medical Evaluation 245
Medical Only 195
Medical Services 138
Medicare Part A 173, 174
Membership 100
Mergers or Combinations 22
Migrant 122
Minimum Experience Requirements 47, 48
Minimum Information Cannot Be Provided 158, 205
Minor Parent 268
Mobile Home 53
Mobility 225
Money Gifts 201
Money Management 225
Money Payment in August 1972 169
Monitor Administering Organizations 23
Monitoring Organizations 23
Monthly Application 114
Monthly Income Varies 136
Monthly Increase or Decrease 141
Multi-State Practices 22
Must Require Certain Level of Care 246

N

NATIVE AMERICAN PAYMENTS 139
NETHERLANDS WUV PAYMENTS 133, 139
NEWBORN CHILD OF MEDICAID MOTHER 172
NON-COMMERCIAL POSSESSION AND CONFINEMENT OF WILDLIFE REQUIREMENTS, PRIVATE PARKS AND COMMERCIAL WILDLIFE FARMS 80
NOTICE AND HEARING 168
NOTICE OF NAME CHANGES 65
NOTIFICATION OF OUTSIDE BUSINESS ACTIVITIES--SELLING AWAY 61
NURSING SERVICES 227
NUTRITION PROGRAMS FOR OLDER AMERICANS 139
National Registry of Emergency Medical Technicians (NREMT) 100
National Society of Public Accountants (NSPA) 23
Nationality 198
Native American Payments 202
Need for Work-Related Services 203
Net Losses 142
Net Self-Employment Income Seven and Sixty-Five Hundredths Percent (7.65%) Deduction 141
New Applicants 197
New Practice Units 22
Ninety (90) Day Review 245
No "Part A" Insurance 173
No Benefit to Participant 181
No Duplication for Blind Work Expenses 155
No Duplication of Disregards 155
No Medicaid Purpose 180
Non-Citizen With Emergency 156
Non-Recurring Lump Sum Income 268
Non-Related Caretaker 268
Nonbusiness Income Producing Property 131
Nonbusiness Property Producing Goods or Services 131
Noncooperation 169
Nonfinancial Requirements 173, 174
Non-transport 100
Normal Medicaid Eligibility 121
Not Good Cause 115
Notice and Exemption 175
Nursing Care 156
Nursing Facility Services 166
Nursing Service Providers 231

O

OAA 121
OBLIGOR'S RIGHTS 116
OFFSET OF OVERPAYMENT AND UNDERPAYMENT 157
ONE HALF (1/2) REMAINING EARNED INCOME DISREGARD 155
ONE-HALF (1/2) SPOUSAL SHARE 166
OUT OF STATE APPLICANTS 122
OVERPAYMENT WITHHOLDING OF UNEARNED INCOME 143
OVERPAYMENTS AND RECOVERY 278
OVERPAYMENTS AND RESTORATION OF BENEFITS 198
Obtain an Import Permit 79
Occasional 100
Occupational Objective 155
One (1) Vehicle Excluded 129
One Hundred Eighty-five Percent (185%) Test 112
One-Time Registration Fees 273
Ongoing Income 135
Other Benefits 134
Other Duties 23
Other Factors In Determining Eligibility For The Refugee Resettlement Program 188
Other Medicaid 174
Other Required Reference Materials 27
Other Vehicles Not Excluded 129
Out-of-Hospital 100
Oversight 243
Oversight Report Review 24

P

PARENT OR CARETAKER ACCESS TO CHILD CARE PREMISES 273
PARENTAL CHOICE 269
PARTICIPANT ENTITLED TO SEC-

TION 1619b SSI ELIGIBILITY STATUS 170
PARTICIPANT RECEIVING EARLY WIDOW'S OR WIDOWER'S SOCIAL SECURITY 172
PARTICIPANT'S GUARDIAN FOR AABD CASH 126
PASS 121
PASS APPROVED BY DEPARTMENT 155
PATIENT LIABILITY 159
PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE 161
PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE 159
PAYMENTS FROM AN EXEMPT TRUST FOR DISABLED PERSON OR POOLED TRUST 183
PENALTY EXCEPTIONS FOR ASSET TRANSFERS 180
PERIOD OF RESTRICTED COVERAGE FOR ASSET TRANSFERS 175
PERMITS. REQUIREMENTS FOR IMPORT, EXPORT, TRANSPORT AND SALE 78
PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS) 171
PERSONAL ASSISTANCE SERVICES 225
PERSONAL CARE SERVICES 227
PERSONAL EFFECTS DEFINITION 130
PERSONAL EMERGENCY RESPONSE SYSTEMS (PERS) 226
PERSONAL INTERVIEW 122
PERSONAL PROPERTY DEFINITION 130
PERSONAL SERVICES 139
PIN 258
PLAN TO ACHIEVE SELF-SUPPORT (PASS) 155
POS 258
PRC 269
PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS 197
PREHOSPITAL ADVANCED LIFE SUPPORT STANDARDS 102
PREPAYMENT SCREEN AND DETERMINATION OF ENTITLEMENT TO MEDICAID PAYMENT FOR NF CARE AND SERVICES 242
PRIZES 144
PROGRAMS FOR OLDER AMERICANS 142
PROHIBITED PRACTICES 73
PROJECTING MONTHLY INCOME 135
PROOF OF COMPLIANCE 109
PROSPECTIVE ELIGIBILITY 134
PROTECTED PERIOD FOR RTA TRANSFER 167
PSYCHIATRIC FACILITY RESIDENT 170
PUBLIC RECORDS ACT COMPLIANCE 67
PURPOSE 261
PURVIEW OF CHILD PROTECTION ACT OR JUVENILE JUSTICE REFORM ACT 273
Parent or Guardian 268
Parolees 124
Participant 120
Participant Address Unknown 156
Participant Becomes Ineligible 126
Participant Request 156
Participant With Spouse 171
Participant in Institution 156
Participation 253
Patient Liability 156
Payment In Name of Both Spouses 161
Payment In Name of Spouse or Spouses and Another Person 161
Payment Procedures 217, 255
Payment Rate 274
Payment for Employment, Seeking Employment, Training, Education, or Preventive Service Hours 273
Payment for Services 211, 221
Payment of Aid and Attendance 161
Payments Not Made to Participant 183
Payments for Food, Clothing or Shelter 183
Payments from Exempt Trust 183
Payments from Pooled Trust 183
Payments on the Principal of Real Estate 142
Penalty For Misusing Burial Funds 129
Performance of Duties 105
Performing Any Medical Procedure or Providing Medication 106
Period of Eligibility 190
Period of Ineligibility 202
Permanent Residents Admitted Before August 22, 1996 123
Permanent Residents Admitted On or After August 22, 1996 123
Permits, Licenses, and Invoices Required 80
Person Living at Same Address not Payable 273
Personal Care Service Providers 231
Personal Emergency Response Systems 230
Personal Transportation 142
Personnel 102, 103, 104
Persons Sixteen Years of Age or Older 247
Persons Under Sixteen Years of Age 247
Physical or Emotional Harm 158, 205
Physician 100
Physician Notified 249
Place of Service Delivery 228
Placed in Another State by Idaho 122
Plan of Care 248
Policies and Procedures 272
Possession of Valid License 79
Possession of Wildlife 79
Poverty Guidelines 94
Poverty Rates 275
Practice Unit Registration Form 22
Preadmission Screening and Determination of Entitlement for Medicaid ICF/MR Payment 238
Prehospital 100
Prepaid Escrowed Costs 73
Prepayment Penalty 74
Prepayment Screen and Determination of Entitlement to Medicaid Payment for NF Care and Services 235
Presumption 108
Preventing Deterioration 243
Primary Care Case Management 253
Problem Resolution 255
Prohibited Practices 73

Prospective Income 268
Provider 268, 274
Provider Charges 274
Provider Claims 232
Provider Not Paid 277
Provider Qualifications 229
Provider Reading 272
Provider Records 233
Provider Reimbursement 232
Provider Responsibility for Notification 233
Providing Any Service Without Licensure or Designation 106
Providing Name of Resettlement Agency 190
Psychological Evaluation 246
Publications of Statements of Policy 64
Purchase of Capital Assets or Durable Goods 142

Q

QMB Dependent Family Member Disregard 173
QROC DUTIES AND RESPONSIBILITIES 23
QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI) 174
QUALIFIED MEDICARE BENEFICIARY (QMB) 173
QUALIFYING ACTIVITIES FOR CHILD CARE 270
QUARTERLY REVIEWS 245
Qualifications 255
Qualified Apprentice Plumbers 47, 48
Qualified Journeyman Plumbers 46, 48
Qualifying Activity Stopped 277
Quality Review Acceptance Letter 22
Quality Review Program 23

R

RADIATION EXPOSURE COMPENSATION ACT PAYMENTS 132, 140
RAILROAD RETIREMENT PAYMENTS 143
REAL ESTATE CONTRACT INCOME 144
REAL PROPERTY DEFINITION 130
REBATES, REFUNDS, AABD UNDERPAYMENTS AND REPLACEMENT CHECKS 140
RECERTIFICATION FOR ICF/MR LEVEL OF CARE 248
RECOGNIZED SECURITIES MANUALS 64
REDETERMINATION 277
REFUGEE MEDICAL ASSISTANCE PROGRAM 195
REGIONAL REVIEW COMMITTEE 249
REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC 34
REGISTRATION OF FREE MEDICAL CLINICS 108
REHABILITATION FORM AND CHECKLIST -- COMPLIANCE CERTIFICATE 55
REHABILITATION REQUIREMENTS 54
REHABILITATIVE SERVICES - - MENTAL HEALTH 207
RELATIONSHIP OF INCOME TO RESOURCES 134
RELATIONSHIP TO SSI 197
RELEASE OF LIENS 115
RELOCATION ASSISTANCE 140
RENEWAL OF REGISTRATIONS OF BROKER-DEALERS, SALESMEN, INVESTMENT ADVISERS OR INVESTMENT ADVISER REPRESENTATIVES 65
RENTAL INCOME 142
REPLACEMENT OF EXCLUDED RESOURCES 130
REPLACEMENT OF INCOME ALREADY RECEIVED 140
REPORTING CHANGES 198
REPORTING REQUIREMENTS 157, 274
REPORTING TO THE BOARD 22
REQUIRED VERIFICATION 122
RESIDENCY 122, 269
RESIDENTIAL HABILITATION 224
RESOURCE ALLOWANCE LIMITS 167
RESOURCE ELIGIBILITY FOR COMMUNITY SPOUSE 168
RESOURCE LIMIT 127
RESOURCE TRANSFER ALLOWANCE (RTA) 167
RESOURCES AND CHANGE IN MARITAL STATUS 127
RESOURCES ASSOCIATED WITH PROPERTY 131
RESOURCES DEFINED 127
RESOURCES ESSENTIAL FOR SELF-SUPPORT EXCLUDED 131
RESOURCES EXCLUDED FROM ASSESSMENT 166
RESOURCES SET ASIDE AS PART OF A PLAN FOR ACHIEVING SELF-SUPPORT (PASS) EXCLUDED 131
RESPITE CARE SERVICES 225
RESTRICTIONS AND PENALTIES 37
RETIREMENT FUNDS 133
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) 143
RETROACTIVE AABD CASH 156
RETROACTIVE AABD CASH AND PARTICIPANT DETERMINED SSI ELIGIBLE AFTER APPEAL 157
RETURN OF MISTAKEN PAYMENTS 140
REVOCATION 109
ROYALTIES 142
RSDI 121
RSDI Benefits Disregarded for Disabled Adult Child 172
RSDI Increase Disregarded for Disabled Adult Child 172
RSDI RECIPIENT 1972 169
RSDI RECIPIENT ENTITLED TO COLA DISREGARD 170
RULE AVAILABILITY 119
Radiation Exposure Payments 202
Rape or Incest 158, 205
Received SSI or AABD 172
Receives SSI 169
Recertification for ICF/MR Level of Care 240
Recipient Eligibility Determination 231
Recipient's Choice 221
Record Keeping Requirements 216
Record Requirements 211, 222

Records Maintenance 233
Records Requirements 81
Redetermination Process 232
Referral to Law Enforcement 97
Refrigeration, Heating, and Air-Conditioning Electrical Installer 45
Refugee 187
Refugee Immigration Status 187
Refugees 124
Regional Review Committee 241, 249
Registrar 108
Registration 34, 108
Registration Fee 108
Registration Number 198
Rehabilitation Checklist 55
Rehabilitation Checklist and Compliance Certification Form 55
Reinstatement 109
Release of Wildlife Without a Permit 83
Relocation Assistance 202
Rent 141
Repairs 142
Repatriate 187
Repayment Default 277
Report Issuance 22
Required Documentation 102, 103, 104
Required Equipment 103, 104, 105
Required Reference Materials 27
Required Reference Materials For Checking Prepackaged Commodities 27
Required Reference Materials For Examinations of Farm Milk Tanks 27
Required Reference Materials for Examination of Liquefied Petroleum Gas Liquid-Measuring Devices 27
Required Trust Account Records and Procedures 67
Requirements For Determining Recipient Eligibility 231
Requirements For Obtaining Certificates of Compliance 55
Res Judicata 115
Resettlement Agency 198
Resettlement Agency and Sponsor Notification 190
Residence 202, 203
Residential Habilitation Service Providers 229
Resource Limit 173, 174, 203
Resource Limitation 155
Resources 174, 268
Resources of Essential Person of Participant 128
Resources of Legal Non-Citizen's Sponsor - I-864 Signed 128
Resources of Legal Non-Citizen's Sponsor - No I-864 Signed 128
Resources of Parent(s) of Child under Age Eighteen (18) 128
Resources of Resident 159
Respite Care Service Providers 229
Responsibilities 101
Responsibilities of Regions 207
Restaurant Meals 153
Restricted Coverage 175
Retroactive (Backdated) Medicaid Eligibility 121
Retroactive Medicaid 156
Review Policies 23
Review Year 22
Review of Denial of Payment 249
Revocable Annuity 179
Revocable Trust 181
Revocation, Suspension or Denial to Issue or Renew 37

S

SALE OF EXCLUDED HOME AND REPLACEMENT 130
SAVE 121
SCHEDULING OF THE QUALITY REVIEW 21
SELF-EMPLOYMENT ALLOWABLE EXPENSES 141
SELF-EMPLOYMENT EXPENSES NOT ALLOWED 141
SELF-EMPLOYMENT INCOME 272
SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY (SIGRIF) ALLOWANCE 153
SERVICE AND ACTIVITIES NOT CONSIDERED ACTIVE TREATMENT 248
SERVICES PAID 203
SHARED OWNERSHIP RULE 128
SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER PAYMENTS 142
SIGRIF 153
SIXTY-FIVE DOLLAR ($65) EARNED INCOME DISREGARD 154
SKILLED SERVICES 243
SLIDING FEE SCHEDULES 275
SOCIAL SECURITY NUMBER 111, 123
SOCIAL SECURITY NUMBERS (SSN) 269
SPECIAL NEEDS ALLOWANCES 153
SPECIALIZED MEDICAL EQUIPMENT AND SUPPLIES 226
SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB) 174
SPONSORED LEGAL NON-CITIZEN 174
SPONSORSHIP 190
SSA 121
SSA Decision for Disabled 126
SSI 121, 134, 258, 269
SSI Benefits 126
SSI METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE 168
SSI PAYMENTS 143
SSN 121, 202, 203
STANDARD DISREGARD 154
STATEWIDE EMS ADVISORY COMMITTEE 100
STOCK IN ALASKA REGIONAL OR VILLAGE CORPORATIONS 132
SUBTRACTION OF EARNED INCOME DISREGARDS 154
SUPPLEMENTAL ON-SITE VISIT 249
SUPPORT AND MAINTENANCE ASSISTANCE (HOME ENERGY ASSISTANCE) 132
SUPPORTED EMPLOYMENT 226
Sales Contract Income 201
Salesmen 61
Sanitary Food Preparation 272
Satisfactory Payment Arrangements Not Made 277
Satisfactory Progress 268
Savings 142
Scope 53, 77, 108, 119, 267
Scope of Work Permitted 47, 49

Second Offense 278
Section 1818A Medicare 174
Selected Recertification 245
Self-Direction 225
Self-Employed At Least One (1) Year 141
Self-Employed Less than One (1) Year 141
Self-Reliance Specialist 232
Senior Volunteers 202
Service Descriptions 207
Service Limitations 212
Service Provider Information 233
Service Supervision 229
Services Delivered Following a Written Plan 228
Services Descriptions 218
Services Provided 224
Shipping 141
Sign Electrical 44
Single Participant 152
Single Penalty Period 176
Skilled Nursing and Other Skilled Rehabilitative Services 236
Skills Training 225
Smoke Detectors 54
Smoke Detectors, Fire Extinguisher and Exits 272
Social Evaluation 246
Social Security Overpayment 201
Social Service 138
Socialization 225
Sole Beneficiary 120
Space Held By Ineligibles Excluded 130
Special Allowance 156
Special Grandfathering Provision 47, 48
Special Medicaid Rate 245
Special Needs 268
Specialized Medical Equipment and Supplies 230
Specific Needs 243
Spina Bifida 202
Sponsor 198
Sponsor to Legal Non-Citizen Deeming Procedures 151
Sponsor/Legal Non-Citizen Relationships 151
Sponsored Legal Non-Citizen Exempt From Deeming 150
Spouse of Adult Participant 128
Standard Disregard Exception 154
Standard Disregard and a Couple 154
Start of Continuous Period 166
State CPA Societies 23
State Health Officer 100
Statements of Policy for Offerings Registered 63
Statutorily Required Records 109
Step-Parent 268
Submission 108
Submit Reports 23
Submitted for Final Decision 249
Supervision Required 243
Supplemental On-Site Visit 242
Supported Employment Service Providers 230
Supported Employment Services 226
Supportive Services 201

T

TAF 258
TAFI 121, 187, 201, 269
TAFI Rules 120
TAFI and AABD Benefits 271
TANF Restrictions 203
TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL 217
TAX ADVANCES AND REFUNDS RELATED TO EARNED INCOME TAX CREDITS 132
TAX REFUNDS 140
TEMPORARY ABSENCE 123
TIME LIMIT 204
TIME LIMITS 122
TITLE AND SCOPE 53, 67, 108, 119, 186, 267
TRANSFER OF JOINTLY-OWNED ASSET 179
TRANSFER OF RIGHTS TO FUTURE INCOME NOT VALID 168
TRANSPORTATION SERVICES 226
TREATMENT OF TRUSTS 181
TRUST ACCOUNT 67
TRUST OR RESTRICTED INDIAN LANDS EXCLUDED 131
TRUSTS 133
TRUSTS AS ASSET TRANSFERS 179
TYPES OF RESOURCES 127
Tax Refunds 201
Taxes 141, 142
Temporary Institution Stay 125
Termination of Payment 249
The National Housing Act 138
Third Offense 278
Third Party Payments 201
Three (3) Year Limit 150
Ticket Printer - Customer Ticket 27
Time Limit 155
Time Limitation 195
Time Period for Disposal of Excess Resources 134
Title 53, 77, 108, 119, 267
Transfer 100
Transfer from Spouse 180
Transfer of Cases 197
Transfer to Child 180
Transfer to Trust for Person Under Sixty-Five (65) 180
Transitioning To A Less Restrictive Environment 247
Transport Between Commercial Fish Facilities 79
Transportation Service Providers Must 230
Travel Reimbursements 271
Treatment Services 214
Tribal Income 271
Trust 169
Trust Account Deposit Requirements 68
Trust Account Disbursement Requirements 69
Trust Managed by Non-profit Association for Disabled Person 183
Trust for Disabled Person 182
Twelve (12) Month Restriction 203
Two-Party Warrants 274

U

UIB 121
UNDERPAYMENT 278
UNDUE HARDSHIP EXCLUSION FROM SALE OF JOINTLY-OWNED REAL PROPERTY 131
UNEMPLOYMENT INSURANCE BENEFITS 143
UNIFORM GIFTS TO MINORS ACT (UGMA) 143
UNIFORMED SERVICES PAY AND ALLOWANCES 142
UNKNOWN RESOURCES 128
UNLICENSED ADULT RESIDEN-

TIAL CARE FACILITY OR ADULT FOSTER HOME 153
UPWARD REVISION OF CSRA 167
UTILITY PAYMENTS 140
Under Age Thirteen (13) 270
Under Sixty-Five (65) 155
Undue Hardship 180
Unearned Income 268
Uniforms 141
Unit Investment Trust 65
United States Housing Act of 1937 138
Unpermitted Fish Species 83
Unprotected Wildlife 79
Upon Receipt of a Loan Application 72
Use of Fees and Contributions 94
Use of Home 141
Use of the LPC (Compound 1080) 35
Usual and Customary Rates 274
Utilities 141
Utility Reimbursement Payment 201

V

VA 121
VA COMPENSATION PAYMENTS 143
VA EDUCATIONAL BENEFITS 143
VA Educational Assistance 202
VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA 133, 140
VA PENSION PAYMENTS 143
VAIP 134
VEHICLES 129
VICTIMS' COMPENSATION PAYMENTS 132, 140
VISTA Volunteers 271
VOCATIONAL REHABILITATION SERVICES PAYMENTS 140
VOLUNTEER SERVICES INCOME 140
Vehicle Value Excluded up to Four Thousand, Five Hundred Dollars ($4,500) 129
Verification of Services Provided 233
Visit the Administering Organization Annually 24
Voluntary Quit 202
Vulnerability Determination 96

W

WAIVER SERVICES FOR ADULTS WITH A TRAUMATIC BRAIN INJURY 223
WALKER V. BAYER PAYMENTS 133, 140
WATER PUMP PLUMBING SPECIALTY LICENSE 48
WEATHERIZATION ASSISTANCE 140
WHEN INCOME IS COUNTED 134
WORKERS' COMPENSATION 143
WORK-RELATED UNEARNED INCOME 144
WRITTEN DISCLOSURES-GOOD FAITH ESTIMATE AND TRUTH-IN-LENDING-DISCLOSURE 72
WRITTEN INTERPRETATIONS 53, 77, 108, 119, 267
WRITTEN INTERPRETATIONS--AGENCY ACCESS--FILINGS 61
WRITTEN INTERPRETATIONS-AGENCY ACCESS-FILINGS 67
Waiver 61
Water System Testing 54
Well Driller and Water Pump Installer Electrical Licenses 44
Who May Report Violation 109
Widows or Widowers Benefits 173
Wildlife 79
Wildlife in Transit 79, 81
Work Reimbursements 201
Work Study Income of Student 202
Working Day 120
Written Disclosure 72

Y

Yard Care 142