



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Senators HEIDER, Souza, Jordan and,
Representatives WOOD, Packer, Chew

FROM: Elizabeth Bowen - Senior Legislative Research Analyst

DATE: January 03, 2018

SUBJECT: Temporary Rule

IDAPA 16.05.03 - Rules Governing Contested Case Proceedings and Declaratory Rulings - Adoption of Pending and Temporary Rule - Docket No. 16-0503-1701

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Elizabeth Bowen at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

Mike Nugent, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.05.03 – RULES GOVERNING CONTESTED CASE PROCEEDINGS
AND DECLARATORY RULINGS

DOCKET NO. 16-0503-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE AND TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2018. The pending rule has been adopted by the agency and is now pending review by the 2018 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 and is also adopting a temporary rule. The action is authorized pursuant to Sections 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code, 42 CFR Sections 431.221, 431.223, and 431.224.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and 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.

These rules are being adopted as temporary rules to meet court-ordered settlement agreements for the Jeff D lawsuit, to comply with federal regulations, to provide benefits to consumers, and to provide other needed internal appeals processes for divisional administrative reviews.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice and includes changes made to the pending rule. The text of the pending rule has been modified in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 171-180](#).

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

The Department needs to have a process for expedited hearings added to meet a settlement agreement ordered by the court. Other changes in this chapter are required for the Department to be in compliance with federal regulations. All changes are being adopted effective January 1, 2018, and confer a benefit for those seeking administrative reviews and hearings.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the State General Fund or any other funds for this rule change. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending and temporary rule, contact Catherine Libby at (208) 334-0632.

DATED this 16th day of November, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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DOCKET NO. 16-0503-1701 - ADOPTION OF PENDING AND TEMPORARY RULE

Substantive changes have been made to the pending rule.
Italicized red text that is double underscored is new text that has been added to the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 17-9, September 6, 2017, pages 171 through 180.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2018 Idaho State Legislature.

Additionally, this rule has been adopted as a temporary rule and is effective January 1, 2018.

Pursuant to Section 67-5226, Idaho Code, the full text of
the temporary rule is being published in this Bulletin.

THE FOLLOWING IS THE TEXT OF THE AMENDED PENDING RULE AND TEMPORARY RULE
FOR DOCKET NO. 16-0503-1701

005. ADMINISTRATIVE PROCEDURES SECTION.

01. Petitions. Petitions for adoption of rules; ~~and~~ petitions for declaratory rulings, ~~and appeals~~ must be filed with: Administrative Procedures Section, 10th Floor, 450 West State Street, P.O. Box 83720, Boise, ID 83720-0036. Phone: (208) 334-5564; FAX: (208) 639-5741; email: APS@dhw.idaho.gov. ~~(4-11-06)~~(1-1-18)T

02. Appeals. Appeals may be filed with the Division, Program, or the Administrative Procedures Section, as provided on the decision notice or in these rules. (1-1-18)T

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

05. Internet Website. The Department's internet website at <http://www.healthandwelfare.idaho.gov/>. (4-11-06)

06. Administrative Procedures Section (APS). The following is the contact information for the Administrative Procedures Coordinator: (1-1-18)T

- a.** Telephone No.: (208) 334-5564; (1-1-18)T
- b.** FAX No.: (208) 639-5741; and (1-1-18)T
- c.** E-Mail Address: APS@dhw.idaho.gov. (1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

[SECTION 124 HAS BEEN MOVED AND RENUMBERED TO PROPOSED SECTION 008]

124008. REPRESENTATION ACCESS TO RECORDS OF INDIVIDUALS WITH DEVELOPMENTAL OR MENTAL DISABILITIES.

Unless an individual, authorized representative or attorney provides a written declaration to the contrary, eligible individuals with developmental disabilities or mental illness are deemed to be represented by The state Protection and Advocacy System established under 42 USC ~~6041~~ 15041, et seq., and 42 USC 10801 et seq., 29 USC 794c, et seq., and 42 USC 300d as designated by the Governor. *The protection and advocacy system* has access to records of *such* individuals who are clients of the system maintained by any program or institution of the Department if the individual has authorized or is unable to authorize the system to have such access, or does not have a legal guardian, conservator or other legal representative. *Service of documents will be made on the protection and advocacy system and the individual. Unless the protection and advocacy system provides written notification to the Department that it will not be representing the individual, the system is an authorized representative.* (4-11-06)(1-1-18)T

~~008.~~—009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter, the following definitions and abbreviations apply. (1-1-18)T

- 01. Administrative Review.** An informal review by a Division Administrator or designee, to determine whether a Department decision is correct. (5-8-09)
- 02. Appellant.** A person or entity who files an appeal of Department action or inaction. (3-30-01)
- 03. Board.** The Idaho Board of Health and Welfare. (3-30-01)
- 04. Complainant.** A person or individual who has a grievance regarding Youth Empowerment Services (YES). (1-1-18)T
- 05. Cost Report.** A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (1-1-18)T
- 06. Cost Settlement.** Final determinations of payment, based on cost reports, to a Medicaid-enrolled provider. (1-1-18)T
- 047. Department.** The Idaho Department of Health and Welfare. (3-30-01)
- 058. Director.** The Director of the Department of Health and Welfare. (3-30-01)
- 069. Hearing Officer.** The person designated to preside over a particular hearing and any related proceedings. (3-30-01)
- 107. IPV.** Intentional program violation. (3-30-01)
- 0811. Intervenor.** Any person, other than an appellant or the Department, who requests to be admitted as a party in an appeal. (3-30-01)

12. Managed Care Entity (MCE). An entity contracted by Medicaid to administer Medicaid services, which may be a Prepaid Ambulatory Health Plan (PAHP), Prepaid Inpatient Health Plan (PIHP), or other Managed Care Organization (MCO) as defined in 42 CFR 438.2. As used in these rules, the term does not include service brokers or entities providing non-emergency medical transportation (NEMT) services. (1-1-18)T

~~09~~**13. Party.** An appellant, the Department and an intervenor, if intervention is permitted. (3-30-01)

14. Youth Empowerment Services (YES) Program Participant. A YES program participant, is an Idaho resident with a Serious Emotional Disturbance who: (1-1-18)T

a. Is under the age of eighteen (18); (1-1-18)T

b. Has a mental health condition described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) and diagnosable by a qualified professional operating within the scope of his practice as defined by Idaho state law; and (1-1-18)T

c. Has a substantial functional impairment that is measured by and documented through the use of a standardized instrument conducted or supervised by a qualified clinician. (1-1-18)T

d. A substance use disorder or development disorder alone does not constitute an eligible diagnosis, although one (1) or more of these conditions may coexist with an eligible mental health diagnosis. (1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

101. FILING OF APPEALS.

01. Appeals. Appeals must be filed in writing and state the appellant's name, address and phone number, and the remedy requested, ~~except that appeals of action relating to Food Stamps may be made verbally to Department staff by an individual or representative~~ unless otherwise provided in these rules. Appeals should be accompanied by a copy of the decision notice that is the subject of the appeal and state the reason for disagreement with the Department's action. (1-1-18)T

02. Time Limits for Filing Appeal. Unless otherwise provided by statute or these rules, individuals who are aggrieved by a Department decision have twenty-eight (28) days from the date the decision is mailed to file an appeal. An appeal is filed when it is received by the Department or postmarked within the time limits ~~set forth~~ provided in the decision notice, or in these rules. ~~(5-8-09)~~(1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

103. PREHEARING CONFERENCE.

01. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference ~~to~~. The purpose of the prehearing conference is to: (1-1-18)T

a. ~~f~~Formulate or simplify the issues; (1-1-18)T

b. ~~o~~Obtain admissions or stipulations of fact and documents; (1-1-18)T

c. ~~i~~Identify whether there is any additional information that had not been presented to the Department with good cause; (1-1-18)T

d. ~~a~~Arrange for exchange of proposed exhibits or prepared expert testimony; (1-1-18)T

e. ~~l~~Limit the number of witnesses; (1-1-18)T

- f. ~~D~~Determine the procedure at the hearing; and ~~to~~ (1-1-18)T
- g. ~~D~~Determine any other matters which may expedite the orderly conduct and disposition of the proceeding. ~~(3-30-01)~~(1-1-18)T

02. Exception to Prehearing Conference. The prehearing conference cannot be mandatory for any Division of Welfare or Division of Medicaid benefit programs. The following apply: (1-1-18)T

a. Participation in the prehearing conference is optional for individuals seeking to appeal for any benefit through the Division of Welfare or Division of Medicaid; and (1-1-18)T

b. A default order may not be entered for cases in which an individual does not participate in the prehearing conference involving benefits through the Division of Welfare, or Division of Medicaid. (1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

106. DEFAULT.

Unless otherwise provided by statute or rule, ~~if~~ if a party fails to appear at a scheduled hearing or at any stage of a contested case, the hearing officer must enter a proposed default order against that party. The default order must be set aside if, within fourteen (14) days of the date of mailing, that party submits a written explanation for not appearing, which the hearing officer finds substantial and reasonable. ~~(4-11-06)~~(1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

122. FILING OF DOCUMENTS IN AN APPEAL.

All documents intended to be used as exhibits must be filed with the hearing officer. Such documents will be provided to every party at the time they are filed with the hearing officer, in person, ~~or~~ by first class mail, or as otherwise ordered by the hearing officer. Service by mail is complete when the document, properly addressed and stamped, is deposited in the United States or Statehouse mail. A certificate showing delivery to all parties will accompany all documents when they are filed with the hearing officer. ~~(4-11-06)~~(1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

[SECTION 124 HAS BEEN MOVED AND RENUMBERED TO PROPOSED SECTION 008]

150. REVIEW OF PRELIMINARY ORDERS BY DEPARTMENT.

Unless otherwise provided in these rules, ~~in~~ in cases under the jurisdiction of the Department, either party may file a request for review with the Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Director or designee must allow for briefing by the parties and determines whether oral argument will be allowed. The Director or designee determines whether a transcript of the hearing is needed and if so, one will be provided by the party who requests review of the preliminary order. The Director or designee must exercise all of the decision-making power he would have had if he had presided over the hearing. ~~(4-11-06)~~(1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

199. SPECIFIC CONTESTED CASE PROVISIONS.

The following sections ~~set forth of this chapter provide~~ special requirements of various Department ~~divisions or~~ programs, ~~which that~~ supersede the general provisions of these rules ~~insofar as to the extent that~~ they are different ~~or~~ inconsistent. ~~Sections 200 through 254 pertain to the programs in the Division of Welfare; Sections 300 and 301 pertain to the Division of Medicaid; and Sections 400 through 402 pertain to the Division of Health.~~
(3-30-01)(1-1-18)T

200. DIVISION OF WELFARE: APPEALS.

The provisions of ~~this s~~ Sections 200 through 299 of ~~these~~ rules govern the conduct of individual benefit hearings to determine eligibility for benefits or services in the Division of Welfare, ~~including IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho," IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)," IDAPA 16.04.14, "Rules Governing the Low Income Energy Assistance Program," IDAPA 16.04.02, "Idaho Telecommunication Service Assistance Program Rules," IDAPA 16.04.12, "Rules Governing the Individual and Family Grant Program," and IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children."~~ and its programs. (5-8-09)(1-1-18)T

01. Division of Welfare Programs. The following programs are covered under the following chapter of rules: (1-1-18)T

- a.** IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children"; (1-1-18)T
- b.** IDAPA 16.03.03, "Rules Governing Child Support Services"; (1-1-18)T
- c.** IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho"; (1-1-18)T
- d.** IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)"; (1-1-18)T
- e.** IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho"; (1-1-18)T
- f.** IDAPA 16.04.14, "Rules Governing the Low Income Energy Assistance Program"; (1-1-18)T
- g.** IDAPA 16.04.02, "Idaho Telecommunication Service Assistance Program Rules"; (1-1-18)T
- h.** IDAPA 16.04.12, "Rules Governing the Individual and Family Grant Program"; and (1-1-18)T
- i.** IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)."; (1-1-18)T

02. Methods for Filing Appeals. Requests for appeals may be made with the Division of Welfare as provided in Section 006 of these rules, using any one (1) of the following listed in this subsection: (1-1-18)T

- a.** Via the Department's internet website: (1-1-18)T
- b.** By telephone; (1-1-18)T
- c.** Via mail; (1-1-18)T
- d.** In person; and (1-1-18)T
- e.** Other commonly available electronic means. (1-1-18)T

201. DIVISION OF WELFARE: TIME FOR FILING APPEAL.

A decision issued by the Department in a Division of Welfare benefit program will be final and effective unless an individual or representative appeals within thirty (30) days from the date the decision was mailed, except that a recipient or applicant for Food Stamps has ninety (90) days to appeal. An individual or representative may also appeal when the Department delays in making an eligibility decision or making payment beyond the limits specified in the particular program within thirty (30) days after the action would have been taken if the Department had acted in

a timely manner.

~~(5-8-09)~~(1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

203. DIVISION OF WELFARE: WITHDRAWAL OF AN APPEAL.

An appellant or representative may withdraw an appeal upon ~~written~~ request to the hearing officer using any one (1) of the methods listed in Section 200 of these rules. ~~(5-8-09)~~(1-1-18)T

204. DIVISION OF WELFARE: TIME LIMITS FOR COMPLETING HEARINGS.

The Department must conduct the hearing relating to an individual's benefits and take action within ninety (90) days from the date the hearing request is received, unless as provided in Subsections 204.01 through 204.03 of this rule. (1-1-18)T

01. Community Spouse Resources Allowance. When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing will be held within thirty (30) days from the date the hearing request is received. (1-1-18)T

02. Food Stamps. When the hearing relates to Food Stamps, the hearing, the decision of the hearing, and the notice regarding the outcome of the hearing will be completed within sixty (60) days from the date the hearing request is received. (1-1-18)T

03. Expedited Hearings. The Department will expedite hearing requests from appellants such as for the following reasons: (1-1-18)T

a. ~~m~~Migrant farm workers who are planning to move before the hearing decision would normally be reached. ~~;~~ or ~~(5-8-09)~~(1-1-18)T

b. Individuals requesting an expedited fair hearing will be provided a hearing as required according to 42 CFR 431.224. (1-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

298. DIVISION OF WELFARE: ~~BUREAU OF~~ CHILD SUPPORT SERVICES.

~~A notice of license suspension becomes final and effective unless~~ In a child support enforcement proceeding, an individual or a representative files an appeal within twenty-one (21) days from the date the decision is mailed may request a hearing after being served notice of license suspension or notice of an asset withholding order from the Financial Institution Data Match (FIDM) process. ~~(5-8-09)~~(1-1-18)T

01. Time Limits for Requesting a Hearing. (1-1-18)T

a. License Suspension. The licensee has twenty-one (21) days from the date of service of the notice either by personal service or certified mail, to request a hearing by filing with the Department to contest the suspension of license or licenses. A timely request for a hearing stays the suspension of the license or licenses through the issuance of the order by the Department. The Department will notify the licensing authority if the suspension is vacated or stayed. (1-1-18)T

b. Financial Institution Data Match (FIDM). The obligor or co-owner has fourteen (14) days from the date of mailing the notice of asset withholding order to request a hearing in writing to contest the asset being withheld. Upon receiving a timely request for hearing, the Department will notify the financial institution that it must continue to hold the asset until an order is issued and the Department provides instructions for the disposition of the asset. If the obligor or co-owner does not file a timely request for hearing, the Department will notify the financial institution to promptly surrender the amount of the asset that has been frozen to the Department. (1-1-18)T

02. Time Limits for Completing Hearings. The Department will hold an administrative hearing within thirty (30) days from the day the Department receives the request for hearing to contest asset withholding from the FIDM process. (1-1-18)T

03. Default. (1-1-18)T

a. Licensing Authority. If the licensee fails to make a timely request for a hearing or fails to appear at the hearing without good cause, the Department will issue an order of Default suspending the license or licenses. On receipt of the final order from the Department, the licensing authority will suspend the license effective the date the order became final, without additional review or hearing. (1-1-18)T

b. Financial Institution. If the obligor or co-owner of the asset fails to appear at the hearing without good cause, the Department will issue an order of Default upholding the asset withholding order. On receipt of the final order from the Department, the financial institution will promptly surrender the amount of the asset that has been frozen to the Department. (1-1-18)T

04. Time for Filing an Appeal. An order of suspension or asset withholding order issued by a hearing officer of the Department will be final and conclusive between the parties unless a petition for review is filed within twenty-eight (28) days with the district court. (1-1-18)T

299. (RESERVED)

300. DIVISIONS OF MEDICAID ~~AND LICENSING AND CERTIFICATION~~: REQUEST FOR ADMINISTRATIVE REVIEWS FOR PROVIDERS AND FACILITIES.

01. Written Request. An action relating to ~~licensure or certification, billing or reimbursement~~ audited cost reports or Medicaid cost settlement calculations required by administrative rule is final and effective unless the provider or facility requests in writing an administrative review within ~~twenty-eight~~ thirty (2830) days after the notice is mailed. The request must: (1-1-18)T

a. ~~Be~~ signed by the licensed administrator of the facility or by the provider; (1-1-18)T

b. ~~Identify~~ the challenged decision, ~~and~~; (1-1-18)T

c. ~~State~~ specifically the grounds for its contention that the decision was erroneous; ~~and~~ (1-1-18)T

d. Include copies of any documentation on which the facility or provider intends to rely to support its position. (1-1-18)T

02. Review Conference. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within ~~twenty-eight~~ thirty (2830) days after the request for the administrative review is received. The thirty (30) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled within thirty (30) days of the initial conference. This second session date may be extended when both parties agree in writing to a specified later date. (1-1-18)T

03. Department Decision. The Department will provide a written decision to the facility or provider. ~~(5-8-09)~~(1-1-18)T

301. DIVISIONS OF MEDICAID ~~AND LICENSING AND CERTIFICATION~~: SCOPE OF APPEAL HEARING.

If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing. ~~(4-11-06)~~(1-1-18)T

302. DIVISION OF MEDICAID: APPEALS PROCESS FOR MEDICAID PARTICIPANTS.

01. Medicaid Participant Appeals. Medicaid participants whose appeals are not related to services

delivered through a Managed Care Entity (MCE), as defined in Section 010 of these rules, must use the appeals process provided in Sections 101 through 199 of these rules. (1-1-18)T

02. Medicaid Participant Appeals Related to Services Delivered Through Managed Care Entity. (1-1-18)T

a. Participants whose appeals are related to services delivered through a managed care entity must utilize the complaint, grievance, and appeal process required by the Department and the managed care contractor. (1-1-18)T

b. Participants whose appeals are related to services delivered through a Managed Care Entity (MCE) must follow the appeals process in 42 CFR 438.402 through 42 CFR 438.408. (1-1-18)T

03. Expedited Fair Hearings for Medicaid Participants. The Department will provide a process for expedited fair hearings for Medicaid participants in accordance with 42 CFR Part 438 or 431, as applicable. (1-1-18)T

302~~3~~. -- 399. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

504. -- ~~95~~99. (RESERVED)

600. DIVISION OF LICENSING AND CERTIFICATION: REQUEST FOR ADMINISTRATIVE REVIEW.

01. Written Request. An action relating to licensure or certification is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (1-1-18)T

a. Be signed by the licensed administrator of the facility, or by the provider; (1-1-18)T

b. Identify the challenged decision; and (1-1-18)T

c. State specifically the grounds for its contention that the decision was erroneous. (1-1-18)T

02. Review Conference. An administrative review conference must be held within twenty-eight (28) days of receipt of the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. The parties must clarify and attempt to resolve the issues during the administrative review conference. If the Department determines additional documentation is needed to resolve the issues, a second session of the review conference may be scheduled. (1-1-18)T

03. Department Decision. The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. (1-1-18)T

601. -- 699. (RESERVED)

700. DIVISION OF BEHAVIORAL HEALTH: REQUEST FOR ADMINISTRATIVE REVIEW.

01. Written Request. An action relating to program approval is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (1-1-18)T

a. Be signed by the program administrator of the facility; (1-1-18)T

b. Identify the challenged decision; and (1-1-18)T

c. State specifically the grounds for its contention that the decision was erroneous. (1-1-18)T

02. **Review Conference.** The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. (1-1-18)T

03. **Department Decision.** The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. (1-1-18)T

701. -- 749. **(RESERVED)**

750. **DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES).** Contested case proceedings for non-Medicaid Youth Empowerment Services (YES) are governed by the general provisions of this chapter, unless otherwise specified in Section 751 of these rules. (1-1-18)T

751. **DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES) GRIEVANCE PROCESS.**

01. **Grievance.** Individuals, family members, or legal guardians may choose to submit a written request to participate in this grievance process regarding non-Medicaid matters related to YES services. A grievance is a statement of dissatisfaction about any matter other than an adverse benefit determination. (1-1-18)T

02. **Grievance Content.** A grievance must include: (1-1-18)T

a. The full name, mailing address, phone numbers, and e-mail contact for the individual who is the complainant using YES services; (1-1-18)T

b. The full name, mailing address, phone numbers, and e-mail contact of the person submitting the grievance on behalf of the complainant; (1-1-18)T

c. A detailed explanation of the decision or non-Medicaid matter related to YES services that is being contested from the perspective of the complainant; and (1-1-18)T

d. Any steps that have already been taken to resolve the issue. (1-1-18)T

03. **Department Response to Grievance.** The Department will respond to the complainant within sixty (60) days of receipt of the grievance on its findings. The grievance process may include gathering additional information from involved parties and may run concurrent to the fair hearing process. (1-1-18)T

a. The Department will address concerns related to dissatisfaction with a process or a provider at the lowest or most appropriate organizational level possible. (1-1-18)T

b. The Department will document the filing of the grievance and the outcome in its response to the complainant. (1-1-18)T

04. **Expedited Hearings.** When the Division of Behavioral Health determines that an expedited fair hearing is needed using the same standards described in Section 302 of these rules, the Department will provide an expedited fair hearing for non-Medicaid eligible YES individuals in compliance with time limits for an agency found in 42 CFR 431 for YES inpatient services, or the time limits for a PAHP found in 42 CFR 438, for outpatient YES services. (1-1-18)T

752. -- 999. **(RESERVED)**