

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Health and Welfare:

IDAPA 16.03.01 - Eligibility for Health Care Assistance for Families and Children - Proposed Rule  
(Docket No. 16-0301-1701);

IDAPA 16.03.01 - Eligibility for Health Care for Families and Children - Proposed Rule (Docket  
No. 16-0301-1702);

IDAPA 16.07.37 - Children's Mental Health Services - Proposed Rule (Docket No. 16-0737-1701).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/09/2017. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/11/2017.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

**FROM:** Senior Legislative Research Analyst - Elizabeth Bowen

**DATE:** October 23, 2017

**SUBJECT:** Department of Health and Welfare

IDAPA 16.03.01 - Eligibility for Health Care Assistance for Families and Children - Proposed Rule (Docket No. 16-0301-1701)

IDAPA 16.03.01 - Eligibility for Health Care for Families and Children - Proposed Rule (Docket No. 16-0301-1702)

IDAPA 16.07.37 - Children's Mental Health Services - Proposed Rule (Docket No. 16-0737-1701)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.01 and 16.07.37.

#### 16.03.01

The first rule, docket no. 16-0301-1701, establishes the Youth Empowerment Services (YES) Medicaid program for children with severe emotional disturbance. The program will provide medical assistance, respite care, and transportation services to recipients, in accordance with the settlement agreement in the Jeff D case and pursuant to House Bill 43, enacted by the 2017 Legislature. Negotiated rulemaking was not conducted, as it was deemed not feasible due to the nature of the rule. There is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 56-202, which authorizes rulemaking for public assistance programs.

The second rule, docket no. 16-0301-1702, clarifies Medicaid eligibility rules for specific populations, including foreign-born children, pregnant women, and foster children. Negotiated rulemaking was not conducted due to the nature of the rule change, which is to clarify current Department practices. There is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 56-202, which authorizes rulemaking for public assistance programs.

#### 16.07.37

This rule removes foster care reimbursement tables and adds references to IDAPA 16.06.01 regarding payments. The rule also provides that grievances and expedited hearings concerning non-Medicaid Youth Empowerment Services will be conducted according to the provisions of IDAPA 16.05.03.

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Negotiated rulemaking was not conducted due to the nature of the rule change, which is to avoid duplicating rules and to comply with the Jeff D settlement agreement. There is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to the following sections of the Idaho Code: 16-2404, 16-2406, 16-2423, 16-2433, 56-202, 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A.

cc: Department of Health and Welfare  
Beverly Barr and Frank Powell

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1701

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code; and House Bill 43 (2017).

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

**PUBLIC HEARING**  
**Wednesday, October 18, 2017 — 9:00 a.m. (Local)**

**Central Idaho - DHW Office**  
**3232 Elder Street**  
**Conference Room D - East**  
**Boise, ID 83705**

The hearing site 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:

As part of the Jeff D settlement agreement and the adoption of HB 43 (2017) that is directly related to it, the Department has created the Youth Empowerment Services (YES) Medicaid program that will provide medical assistance, respite care, and transportation services to youth diagnosed with Severe Emotional Disturbance (SED). The Division of Welfare will be determining the non-financial and financial eligibility components of the program. Specifically, this rule change adds guidance around the eligibility criteria that a participant must meet to be eligible for services under the YES program. This is a companion rule to Docket No. 16-0310-1706 and Docket No. 16-0318-1701 publishing in this Bulletin.

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

**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 as a result of this rulemaking:

There is no anticipated fiscal impact for this rulemaking to the State General Fund, or any other funds as eligibility will be determined for this program in conjunction with already existing Medicaid programs through the automated eligibility system.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking was not feasible since these rule changes are not negotiable as the benefits included herein are court-ordered through the Jeff D settlement agreement.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Camille Schiller at (208) 334-5969.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
Phone: (208) 334-5500  
Fax: (208) 334-6558  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**540. YOUTH EMPOWERMENT SERVICES (YES) PROGRAM CHILDREN.**

**01. Payments for Children Under Eighteen (18) Years of Age with SED.** In accordance with Section 56-254(2), Idaho Code, the Department will make payments for medical assistance for a child under eighteen (18) years of age with serious emotional disturbance (SED), as defined in Section 16-2403, Idaho Code, and verified by an independent assessment: ( )

**a.** Whose family income does not exceed three hundred percent (300%) of the federal poverty guideline (FPG) as determined using MAGI-based eligibility standards; and ( )

**b.** Who meets other eligibility standards in accordance with the rules of the Department. ( )

**02. Youth Empowerment Services (YES) Benefits.** Applicants whose family income is equal to or less three hundred percent (300%) of the Federal Poverty Guidelines (FPG) for children zero (0) to eighteen (18) years of age and who meet the non-financial eligibility criteria in Sections 200 through 299 of these rules may receive the following benefits: ( )

**a.** Youth Empowerment Services (YES) State Plan option services and supports described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 641; and ( )

**b.** Additional covered services set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 075 through 799. ( )

**03. Additional Eligibility Criteria and Program Requirements for YES.** Additional eligibility criteria and program requirements applicable to the Youth Empowerment Services (YES) State Plan option are described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 641. ( )

**540**~~1~~. -- 544. (RESERVED)

## IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

### 16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1702

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, 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 18, 2017.

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:

These rule changes clarify certain areas of eligibility for specialized populations. While the proposed changes are minor, they will greatly add to the understanding of the intent of the program administration for children under a certain adoptive category for citizenship purposes, foster children who are seeking benefits, and pregnant women needing postpartum services.

The following rule changes are being made:

1. An exception is being added to restrict certain foreign-born children's eligibility due to a particular adoption code;
2. A provision is being removed that would inadvertently prevent pregnant women to receive postpartum services regardless of when they apply for benefits during or after their pregnancy ends; and
3. A clarification is being added to rules regarding Title XIX foster care Medicaid to explain when certain eligibility criteria should be used.

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

**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 as a result of this rulemaking:

The fiscal impact associated with this rule change is minimal to none. An analysis conducted by the Division of Medicaid concluded any potential impact is so minimal that requesting additional funds is not warranted at this time.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule changes simply clarify current Department practices and do not change eligibility determinations for customers. Stakeholders will not be affected by these changes.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Camille Schiller at (208) 334-5969.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 1st day of September, 2017

Tamara Prisock  
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Boise, ID 83720-0036  
Phone: (208) 334-5500 / Fax: (208) 334-6558  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1702**  
**(Only Those Sections With Amendments Are Shown.)**

**221. U.S. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible, an individual must be a lawfully present member of one (1) of the following groups: (3-20-14)

**01. U.S. Citizen.** A U.S. Citizen or a “national of the United States.” (3-20-14)

**02. Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-20-14)

**a.** At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-20-14)

**b.** The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen, and the child does not have IR-4 status; ~~(3-20-14)~~( )

**c.** The child is under eighteen (18) years of age; (3-20-14)

**d.** The child is a lawful permanent resident; and (3-20-14)

**e.** If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-20-14)

**03. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-20-14)

**04. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who was honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard for a reason other than their citizenship status, or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-20-14)

**05. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, who is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c), who remained continuously present in the U.S. until he became a qualified non-citizen. (3-20-14)

**06. Non-Citizen Entering On or After August 22, 1996.** A non-citizen who entered the U.S. on or after August 22, 1996, and who is: (3-20-14)

**a.** A refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from the date of entry; (3-20-14)

**b.** An asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date asylee status is assigned; (3-20-14)

**c.** An individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date deportation or removal was withheld; (3-20-14)

**d.** An Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-14)

**e.** A Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act under Section 501(e) of P.L. 96-422 (1980), and can be eligible for seven (7) years from the date of entry. (3-20-14)

**07. Qualified Non-Citizen Entering On or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who entered the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-20-14)

**08. American Indian Born in Canada.** An American Indian born in Canada, under 8 U.S.C. 1359. (3-20-14)

**09. American Indian Born Outside the U.S.** An American Indian born outside of the U.S., who is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-20-14)

**10. Qualified Non-Citizen Child Receiving Federal Foster Care.** A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-20-14)

**11. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-14)

**a.** Is under the age of eighteen (18) years; or (3-20-14)

**b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-14)

**i.** Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-14)

**ii.** Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-14)

**12. Afghan Special Immigrant.** An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007. (3-20-14)

**13. Iraqi Special Immigrant.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (3-20-14)

**14. Individuals not Meeting the Citizenship or Qualified Non-Citizen Requirements.** An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 221.01 through 221.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-25-16)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. PREGNANT WOMAN COVERAGE.**

A pregnant woman of any age is eligible for the Pregnant Woman coverage if she meets all of the non-financial and financial criteria of the coverage group. Health care assistance for Pregnant Woman coverage is limited to pregnancy-



related and postpartum services. The Pregnant Woman medical assistance coverage extends through the sixty (60) day postpartum period if she ~~applied for medical assistance while pregnant and~~ was eligible to receive receiving medical assistance when the child was born. ~~An individual who applies for Pregnant Woman medical assistance after the child is born is not eligible for the sixty day (60) postpartum period.~~ (3-20-14)(    )

**01. Income Limit.** The individual's calculated income must not exceed one hundred thirty-three percent (133%) of the Federal Poverty Guidelines (FPG) for her family size in the application month. (3-20-14)

**02. Household Size.** The household budget unit consists of the pregnant woman, the unborn child or children if expecting more than one (1) child, and any individual determined to be part of the household budget unit based on MAGI methodologies as identified in Sections 300 through 303, and 411 of these rules. (3-20-14)

**03. Income Disregards.** A standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) for family size is applied to the MAGI income of the pregnant woman if the disregard is necessary to establish income eligibility. (3-20-14)

**04. Continuing Eligibility.** The pregnant woman remains eligible during the pregnancy regardless of changes in income. The woman must report the end of pregnancy to the Department within ten (10) days. (3-20-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**535. TITLE IV-E FOSTER CARE CHILD.**

A child may be eligible for ~~Health Care Assistance as a~~ Medicaid under the Title IV-E foster care child program if they ~~following conditions are met~~ the eligibility requirements in IDAPA 16.06.01, "Child and Family Services," Section 425. (3-20-14)(    )

~~01. Court Order or Voluntary Placement. The child must have been living in a parent's or relative's home during the month a court order removes the child or during the month a parent or relative voluntarily signs a written agreement with the Department for foster care.~~ (3-20-14)

~~02. Custody and Placement. The child's placement and care are the Department's responsibility and the child is living in a licensed foster home, licensed institution, licensed group home, detention center, or in a relative's home approved for the child by the Department.~~ (3-20-14)

~~03. IV-E Foster Care and SSI Eligibility. When a child is eligible for both IV-E Foster Care and SSI, the caretaker relative or social worker must choose the Medicaid coverage group for the child.~~ (3-20-14)

**536. TITLE XIX FOSTER CHILD.**

A child ~~living in a foster home, children's agency, or children's institution~~ who does not meet the conditions of Title IV-E Foster Care may be Medicaid eligible if the ~~following conditions are met:~~ child meets the non-financial and financial requirements to be eligible for Title XIX Medicaid as a categorically eligible child under regular MAGI-based methodology. (3-20-14)(    )

~~01. Age. The foster child is under age twenty-one (21).~~ (3-20-14)

~~02. Department Responsibility. The Department assumes full or partial financial responsibility for the child.~~ (3-20-14)

~~03. Calculated Income. The child's calculated income is:~~ (3-20-14)

~~a. Two hundred thirty three dollars (\$233) or less; and~~ (3-20-14)

~~b. If necessary, a standard disregard of five percent (5%) of Federal Poverty Guidelines (FPG) by family size is applied to the child's calculated income in order for the child to be eligible for coverage.~~ (3-20-14)

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.07.37 – CHILDREN'S MENTAL HEALTH SERVICES**

**DOCKET NO. 16-0737-1701**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, 56-1004A, 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 18, 2017.

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:

These amendments remove tables that provide reimbursement amounts for foster care, and add references to IDAPA 16.06.01, "Child and Family Services," that provide payments to alternate care providers. Also, changes are being made for class members covered by a court-ordered settlement agreement for grievances and expedited hearings.

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

**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 as a result of this rulemaking:

The fiscal impact for these rule changes are meant to be cost-neutral. Items being removed or amended in this chapter are covered under other rules and have no fiscal impact to state general funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiate these changes due to the simple nature of the change for duplicated rules and to comply with a court-ordered settlement agreement.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
Phone: (208) 334-5500 / Fax: (208) 334-6558  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0737-1701  
(Only Those Sections With Amendments Are Shown.)

003. ADMINISTRATIVE APPEALS.

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers: are paid according to IDAPA 16.06.01, "Child and Family Services."

<i>Family Alternate Care Payments—Table 283</i>			
<i>Ages</i>	<i>0-5</i>	<i>6-12</i>	<i>13-18</i>
<i>Monthly Room and Board</i>	<i>\$329</i>	<i>\$366</i>	<i>\$487</i>

(7-1-17)( )

01. **Gifts.** ~~An additional thirty dollars (\$30)~~ Additional payments for Christmas gifts and ~~twenty dollars (\$20)~~ for birthday gifts will be paid in the appropriate months. (5-8-09)( )

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

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

284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid ~~under Section 283 of these rules.~~ according to IDAPA 16.06.01, "Child and Family Services." The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows:

<b>Additional Family Alternate Care Payments – Table 284</b>		
<i>Lowest Level of Need</i>	<i>Moderate Level of Need</i>	<i>Highest Level of Need</i>
<i>\$90 per month</i>	<i>\$150 per month</i>	<i>\$240 per month</i>

(7-1-17)( )

**01. Lowest Level of Need.** ~~Ninety dollars (\$90) per month for a~~ Δ child requiring a mild degree of care for documented conditions ~~including~~ receives the lowest level of additional payments for the following:

(5-8-09)( )

- a. Chronic medical problems; (5-8-09)
- b. Frequent, time-consuming transportation needs; (5-8-09)
- c. Behaviors requiring extra supervision and control; and (5-8-09)
- d. Need for preparation for independent living. (5-8-09)

**02. Moderate Level of Need.** ~~One hundred fifty dollars (\$150) per month for a~~ Δ child requiring a moderate degree of care for documented conditions ~~including~~ receives the moderate level of additional payments for the following:

(5-8-09)( )

- a. Ongoing major medical problems; (5-8-09)
- b. Behaviors that require immediate action or control; and (5-8-09)
- c. Alcohol or other substance use disorder. (5-8-09)

**03. Highest Level of Need.** ~~Two hundred forty dollars (\$240) per month for a~~ Δ child requiring an extraordinary degree of care for documented conditions ~~including~~ receives the highest level of additional payments for the following:

(5-8-09)( )

- a. Serious emotional or behavioral disorder that requires continuous supervision; (5-8-09)
- b. Severe developmental disability; and (5-8-09)
- c. Severe physical disability such as quadriplegia. (5-8-09)

**04. Reportable Income.** Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)