Dear Senators LODGE, Broadsword & Werk, and
Representatives BLOCK, Nielsen & Henbest:

The Legislative Services Office, Research and Legislation, has received the enclosed rule of the Department of Health & Welfare: 16.03.09 Medicaid Basic Plan Benefits - Credentialing.

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 10-09-08. 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 11-06-08.

_____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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

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

FROM: Research & Legislation Staff - Paige Alan Parker

DATE: September 22, 2008

SUBJECT: Department of Health and Welfare - IDAPA 16.03.09 - Medicaid Basic Plan Benefits (Docket No. 16-0309-0802) (Proposed))

By this Proposed and Temporary Rule docket, the Department of Health and Welfare amends IDAPA 16.03.09 (Docket No. 16-0309-0802)(hereinafter "proposed rule").

The Department states that it is making changes regarding the credentialing of mental health clinic services providers in order to clarify credentialing terminology and criteria.

According to the Department, the proposed rule is authorized pursuant to sections 56-202(b), 56-203(g) and (I) and 56-250 through 56-257, Idaho Code. Section 56-202(b), Idaho Code, provides the Department with general and broad rulemaking authority. Section 56-203, Idaho Code, provides the Department with various powers, including to define persons entitled to medical assistance in such terms as will meet requirements for federal participation in medical assistance payments and to determine the amount, duration and scope of care and services to be purchased as medical assistance on behalf of needy eligible individuals. Sections 56-250 through 56-257, Idaho Code, are part of the Idaho Medicaid Simplification Act, adopted by the Legislature in 2006. Pursuant to section 56-253(8), Idaho Code, the Department's Director is given the authority to promulgate rules consistent with the Act.

According to the Department, no fee or charge is imposed by the proposed rule and there is no anticipated impact to the General Fund. According to the Department, negotiated rulemaking was not conducted but that an informal meeting was held with stakeholders in late July. No notice of negotiated rulemaking was published in the Administrative Bulletin, but an online notice was placed on the Department's web site and on the Administrative Rules Coordinator's July calender page. The Department states that a public hearing will be scheduled if requested in writing by 25 persons, a political subdivision or an agency not later than October

15, 2008. All written comments must be delivered to the Department on or before October 22, 2008.

ANALYSIS

The proposed rule deletes the introductory three-year "phase in" language of section 712 dealing with Mental Health Clinic Services - Credentialing Responsibilities of the Department. Existing provider and new provider applicants have ten business days of receipt of notice to submit additional information if the application is not in substantial compliance with the rules. Section 712.02.

Under the proposed rule, if a new provider applicant successfully passes the application portion of the credentialing, an up to 180 day temporary credential will be issued. If the provider applicant is deemed to be in substantial compliance with the rules, the temporary credential will be converted to a full credential. Otherwise the temporary credential will expire and the provider applicant will not be reconsidered for twelve months. Section 712.04.

Added as part of the initial credentialing process is "self study" which, according to the proposed rule, provides the agency the opportunity to formally document policies and procedures that demonstrate compliance with the provider responsibilities (section 713) and the provider agency requirements (section 714) of the rule. Section 712.05.b. Under the proposed rule, elements of the application include ownership and governance, physician contract for medical and clinical oversight and supervision, proof of appropriate insurance, appropriate employment and contract documentation, and copies of relevant licenses and transcripts. Section 712.05.a. The proposed rule explains that the on-site review portion of the application provides the Department the opportunity to observe service delivery and ensure the agency actually implements and complies with its policies and procedures. Section 712.05.c.

Providers that have been accredited by specified private accreditation agencies are exempt for the credentialing process. The proposed rule provides that other accrediting agencies may be determined acceptable upon Department review. The proposed rule requires providers to submit appropriate documentation of their private accreditation status. Section 712.06.

The proposed rule substitutes "denied" for "suspended" in specifying when an agency's credential will expire. Section 712.07. The proposed rule also clarifies the additional reasons for the revocation of credentials. Section 712.09.

SUMMARY

Except as discussed above, the Department's proposed rule appears to be authorized under sections 56-202(b) and 56-253(8), Idaho Code.

cc: Randy May, Department of Health and Welfare

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0802

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(b), 56-203(g), 56-203(i), 56-250 through 56-257, 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 Wednesday, October 15, 2008.

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:

The Department is making changes in the rules regarding the credentialing of providers of mental health clinic services. These changes clarify credentialing terminology as well as the credentialing criteria for new and existing providers. These proposed changes will make the credentialing process easier to understand for providers, Medicaid staff, and the Credentialing Contractor.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any 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 related to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to 67-5220(2), Idaho Code, negotiated rulemaking was not conducted.

However, an informal meeting to negotiate the content of the rule was held with stakeholders on Monday, July 28, 2008. Due to time constraints, no notice was published in the Administrative Bulletin. However, an online notice was placed on the external Health and Welfare website. Also, a link to this notice was placed on the July calendar page of the state's Administrative Rules Coordinator.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy May at (208) 334-5747.

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 Wednesday, October 22, 2008.

DATED this 5th day of August, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone (208) 334-6558 fax
dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0802

712. MENTAL HEALTH CLINIC SERVICES - CREDENTIALING RESPONSIBILITIES OF THE DEPARTMENT.

~~*The Department is phasing in the Credentialing Program in 2006. During the first three (3) years of development the following will take place:* (3-30-07)~~

01. Reimbursement. A mental health clinic must be designated as credentialed or provisionally credentialed in order to receive Medicaid reimbursement for services. Any agency that fails to achieve or maintain credentialed status will have its Medicaid provider agreement terminated. ~~(3-30-07)~~( )

02. Application. All existing providers and new provider applicants must submit an application for credentialing that will be reviewed in order to proceed with the credentialing process and obtain the required credential by the Department. All initial applications will be responded to within thirty (30) calendar days. If the application is incomplete or is not in substantial compliance with these rules, the applicant must submit the additional information within ten (10) business days of receipt of notice for the application to be considered further. The application will be reviewed up to three (3) times. If the applicant has not provided the required information by the third submittal, then the application will be denied and the application will not be considered again for twelve (12) months. ~~(3-30-07)~~( )

03. Temporary Credentialed Status. In order for existing providers to be able to continue to provide services during ~~*these first three (3) years*~~ initial development, the Department will grant a one-time temporary credential to all existing providers. ~~(3-30-07)~~( )

04. New Providers. ~~*Once the Credentialing Program is initiated n*~~New provider applicants will be required to submit a~~n~~ credentialing application and successfully complete the credentialing application process as a condition for Department approval as a Medicaid provider. If the new provider applicant successfully passes the application portion of credentialing, then a temporary credential will be issued to the provider for up to one hundred eighty (180) days. Within the one hundred eighty (180) days, an on-site review will be conducted. If the provider applicant is deemed to be in substantial compliance with these rules, then the temporary credential will be converted to a full credential. If the provider fails to be in substantial compliance, then the temporary credential will expire, credentialed status will be denied, and the provider applicant will not be considered for credentialing again for twelve (12) months. ~~(3-30-07)~~( )

05. Elements of Credentialing. The initial credentialing process consists of the application, self-study, and an on-site review for compliance with the requirements of these rules. ~~(3-30-07)~~( )

a. The application provides documentation the agency has met the criteria set forth in these rules. Elements contained in the application include: ( )

i. Ownership and governance; ( )

ii. Physician contract for medical and clinical oversight and supervision; ( )

iii. Proof of appropriate insurance; ( )

iv. Appropriate employment and contract documentation; and ( )

v. Copies of relevant licenses and transcripts. ( )

b. The self-study provides the agency the opportunity to formally document policies and procedures that demonstrate compliance with Sections 713 and 714 of these rules. ( )

c. The on-site review provides the Department the opportunity to observe service delivery and ensure

the agency actually implements and complies with their policies and procedures. ( )

06. Deemed Status. Providers accredited by private accreditation agencies, ~~*such as*~~ (i.e., the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) or Commission on the Accreditation of Rehabilitation Facilities (CARF)), will be exempt from credentialing processes~~ *that the Department deems redundant*~~. Other accrediting agencies may be determined acceptable upon review by the Department. Providers must submit to the Department appropriate documentation of their private accreditation status. ~~*(3-30-07)*~~( )

07. Expiration and Renewal of Credentialed Status. Credentials issued under these rules will be issued for a period up to three (3) years. Unless ~~*suspended*~~ denied or revoked, the agency's credential will expire on the date designated by the Department. No later than ninety (90) days before expiration, an agency must apply for renewal of credentials. A site review may be conducted by the Department for renewal applications. ~~*(3-30-07)*~~( )

08. Provisional Credentialed Status. If a new or renewal applicant is found deficient in one (1) or more of the requirements for credentialing, but does not have deficiencies that jeopardize the health and safety of the participants or substantially affect the provider's ability to provide services, a provisional credential may be issued. Provisional credentials will be issued for a period not to exceed one hundred eighty (180) days. During that time, the Department will determine whether the deficiencies have been corrected. If so, then the agency will be credentialed. If not, then the credential will be denied or revoked. (3-30-07)

09. Denial or Revocation of Credentialed Status. The Department may deny or revoke credentials when conditions exist that endanger the health, safety, or welfare of any participant or when the agency is not in substantial compliance with these rules. Additional causes for denial or revocation of credentials include the following: ~~*(3-30-07)*~~( )

a. The provider agency or provider agency applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining credentialed status; (3-30-07)

b. The provider agency or provider agency applicant has been convicted of or is currently under investigation for fraud, gross negligence, abuse, assault, battery or exploitation; (3-30-07)

c. The provider agency or provider agency applicant has been convicted of a criminal offense within the past five (5) years other than a minor traffic violation or similar minor offense; (3-30-07)

d. The provider agency or provider agency applicant has been denied or has had revoked any health facility license or certificate; (3-30-07)

e. A court has ordered that any provider agency owner or provider agency applicant must not operate a health facility, residential care or assisted living facility, or certified family home; (3-30-07)

f. Any owners, employees, or contractors of the provider agency or provider agency applicant are listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; (3-30-07)

g. The provider agency or provider agency applicant is directly under the control or influence, whether financial or other, of any person who is described in Subsections 712.09.a. through 712.09.f. of this rule. (3-30-07)

10. Procedure for Appeal of Denial or Revocation of Credentials. Immediately upon denial or revocation of credentials, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)