

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

The Office of the Legislative Services, Research and Legislation, has received the
enclosed rules of the Dept. Of Health & Welfare:

IDAPA 16.04.03 - Fees for Community Mental Health Center Services

(Docket No. 16-0403-0801);

16.07.01 - Behavioral Health Sliding Fee Schedules (Docket No. 16-0701-0801).

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 12-27-07. 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 1-25-08.

_____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: December 7, 2007

SUBJECT: Department of Health and Welfare - IDAPA 16.04.03 - Fees for Community Mental Health Center Services (Docket No. 16-0403-0801) (Chapter Repeal)(Temporary and Proposed Fee); and Department of Health and Welfare - IDAPA 16.07.01 - Behavioral Health Sliding Fee Schedules (Docket No. 16-0701-0801)(Chapter Rewrite)(Temporary and Proposed Fee)

By these two Temporary and Proposed Fee Rule dockets, the Department of Health and Welfare proposes to repeal IDAPA 16.04.03 in its entirety (Docket No. 16-0403-0801) (hereinafter "fee chapter repeal") to avoid confusion and duplication with new IDAPA 16.07.01 (Docket No. 16-0701-0801)(hereinafter "new fee chapter"). The Governor's justification for the temporary rule is compliance with deadlines in amendments to governing law or federal programs. In explanation, the Department states that SB 1149 passed in the last Legislative Session requires the Department to implement a fee schedule for persons convicted of a felony or serving on probation or parole. SB 1149 (2007), codified at section 19-2524, Idaho Code, permits the court to order a felon to undergo a substance abuse assessment and/or a mental health examination. The expense is borne by the Department, which is entitled to any payment received by the defendant or which he may be entitled for the assessment, examinations and treatment and to any payment from any public or private source available to the Department for these services. The statute authorizes the Department to promulgate rules for a schedule of fees to be charged to defendants for these services, based upon their costs and the ability of the defendant to pay.

Section 67-5226(2), Idaho Code, permits the Governor to impose a temporary fee rule which has not been approved by concurrent resolution, but only if the Governor finds that the fee is necessary to avoid immediate danger which justifies the imposition of the fee. The Governor addresses this requirement by explaining that felony offenders in need of assessment, evaluation

and treatment services are being required to pay for a portion of their treatment according to their ability to pay pursuant to a federal poverty based sliding scale. The Governor states that without the rule, access to services may be limited, causing offenders to endanger themselves and others. This is an exception to the general rule that a fee cannot be imposed unless it is approved by concurrent resolution. Section 67-5224(4)(c), Idaho Code.

According to the Department, the fee chapter repeal is authorized by sections 39-3133, 39-3137 and 56-1007, Idaho Code. Section 39-3133, Idaho Code, requires the Department's Director to make such other rules as are necessary and proper to carry out the purposes and intent of the Regional Mental Health Services Act. Section 39-3137, Idaho Code, provides that persons receiving services under the Regional Mental Health Services Act will be charged fees in keeping with a fee schedule prepared by the state mental health authority. Section 56-1007, Idaho Code, authorizes the Department to charge and collect reasonable fees, established by rule, for any service rendered by the department and permits the determination of the fee by a sliding scale according to income or available assets.

According to the Department, the new fee chapter is authorized pursuant to sections 16-2433, 19-2524, 20-511A, 20-520(1)(I), 39-309, and 39-3137, Idaho Code. Section 16-2433, Idaho Code, authorizes the Department's Director to promulgate rules necessary to implement the Children's Mental Health Services chapter, including the development of a schedule of fees to be charged to parents based on the cost of services and the ability to pay. Section 19-2524, Idaho Code, is discussed above. Section 20-511A, Idaho Code, permits the court to order the Department to submit appropriate mental health assessments and a plan of treatment at any stage of a proceeding under the Juvenile Corrections Act or the Child Protective Act where the judge has reason to believe that the juvenile is suffering a substantial increase or persistence of a serious emotional disturbance which has not been adequately addressed. The Department is required to provide mental health treatment ordered by the court, the cost of which is to be paid by the parents according to their ability to pay based upon the Department's sliding scale. Section 20-520(1)(I), Idaho Code, permits the court to order the Department to conduct a comprehensive substance abuse assessment of the juvenile as part of the sentencing process and to order the Department to provide immediate treatment, with the initial cost being borne by the Department, subject to payment by the parents based upon the cost of the services and their ability to pay. Section 39-309, Idaho Code, requires the Department to adopt rules governing financial ability for services provided under the Alcoholism and Intoxication Treatment Act. Section 39-3137, Idaho Code, is discussed above.

According to the Department, the new fee chapter will require felony offenders in need of assessment, evaluation and treatment services to pay according to a sliding fee schedule, based on the federal poverty guidelines. The Department believes that the new fee chapter will result in a decrease of \$2,126 in fee collection for Children's Mental Health services and a decrease of \$33,672 in fee collection for Adult Mental Health services which must be met by the state General Fund. There is no anticipated fiscal impact to the alcohol and substance disorders programs. In addition, changes to the computerized billing system to update the current fee table

used by the Daily Activity Report automated system is estimated to result in an annual cost of approximately \$1,000.

According to the Department, negotiated rulemaking was not conducted because the changes to this rulemaking are being implemented to meet the requirements of newly passed legislation. The Department states that public hearings will be scheduled if requested in writing by 25 persons, a political subdivision or an agency not later than January 16, 2008. All written comments must be delivered to the Department on or before January 23, 2008.

ANALYSIS

This memorandum will focus on the new fee chapter with the discussion of the repealed fee chapter being limited to any changes between it and the new fee chapter.

The sections on Legal Authority (000), Title (001.01), Written Interpretations (002), Administrative Appeals and Complaint Procedure (003), Incorporation by Reference [none] (004), Office – Office Hours – Mailing Address – Street Address – Telephone Number – Internet Web Site (005) and Confidentiality of Records and Public Records Requests (006) are standard. The Scope of the new fee chapter is the provision of the sliding fee schedules, based on federal poverty guidelines and fee determination process for the adult mental health, children’s mental health and substance use disorders programs. The Department notes that the new fee rules apply to both voluntary and court-ordered recipients. Section 001.02.

The new fee chapter has 24 defined terms. Section 010. Six (ability to pay, adjusted gross income, allowable deductions, court-ordered obligations, department and third-party payer) are identical to defined terms contained in the repealed fee chapter. None of the remaining definitions are at odds with defined terms in the Idaho Code chapters (chapter 24, title 16, dealing with children’s mental health services; chapter 5, title 20, dealing with juvenile corrections; chapter 3, title 39, dealing with alcoholism and intoxication treatment; and chapter 31, title 39, dealing with mental health services) from which the new fee rule draws its authority except for “legal guardian” and “serious emotional disturbance.” Defining terms in rule at variance to terms defined in the relevant statutes is to be discouraged since it may cause confusion and promote litigation.

The amount to be charged to parents or legal guardians of children with serious emotional disturbances and to adults who receive services either directly from the Department or through Department contracts with private providers is to be determined pursuant to the same sliding scale. That scale, set forth at section 300 of the new fee chapter, provides for no cost sharing responsibility when the parent/legal guardian or the adult have a family unit income of less than 100% of the federal poverty guidelines (FPG). Thereafter, the percentage of cost sharing goes up 5% for each 10% of the family unit income above 100% of FPG to a 100% cost sharing when the family unit income reaches 290% of FPG. The sliding fee schedule for community mental health center services in the repealed fee chapter provided dollar amounts per number of persons in the

household, based on the poverty guidelines as published in 1993.

Under section 400 of the new fee chapter, a Fee Determination form must be completed prior to the delivery of services. The fee determination process is based on the ability to pay which is based on the number of persons in the family household and the income of those persons. The determination is made at the time the voluntary request for services is made, or as soon as possible thereafter, annually, upon request of the parent/legal guardian or when changes occur in family size, income or allowable deductions. Annualized deductions are made for court-ordered obligations, dependent support, child care payments necessary for parental/legal guardian employment, medical expenses, transportation, extraordinary rehabilitative expenses and state and federal tax payments, including FICA taxes. The allowable deductions under the repealed fee chapter for community mental health center services did not provide deductions for medical expenses, transportation, extraordinary rehabilitative expenses or taxes. However, the repealed fee chapter did provide for adjustments to fees upon the signature authorization of the Director based on stated guidelines.

Information regarding third-party payors and other resources (Medicaid, private insurance, etc.) must be identified and developed. It is the responsibility of parents/legal guardians or the adult client to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available.

Payment is to be made at the time of service delivery, unless otherwise arranged. In no case will the amount charged exceed the cost of the service. Maximum fees for services are established by the Department, although fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates change. Current information regarding services and fee charges can be obtained from the Department. Under the repealed fee chapter, the charges for community mental health center services were stated and were last adjusted in 1994.

The sliding scale schedule for alcohol and substance use disorders calls for a 5% cost sharing responsibility where the family unit income is less than 100% of FPG and a 10% cost sharing responsibility where the family unit income is 100% to 104% of FPG, with the cost sharing responsibility increasing thereafter by 10% for each 10% increase in the family unit income as a percentage of FPG. When the family unit income reaches the 165% to 175% of FPG, the cost sharing responsibility is 70%. Adult clients above 175% of poverty are not eligible for services. Section 500.

The calculation of income in applying the sliding fee schedule for alcohol and substance abuse disorder services under section 600 of the new fee rule is similar to the provisions in section 400 with regard to children and adult mental health services. For alcohol and substance abuse disorder services, payment is due 30 days from the date of billing unless other arrangements are made. The maximum fees charged for these services will be established by the Department in collaboration with the Interagency Committee on Substance Abuse Prevention and

Treatment and the Board of Health and Welfare.

SUMMARY

The Department's new fee chapter appears to be authorized under sections 16-2433, 19-2524, 20-511A, 20-520(1)(I), 39-309 and 39-3137, Idaho Code. The new fee chapter provides for annual updating of fees by linking the fees to the annually published federal poverty guideline.

cc: Sherri Kovach and Scott Tiffany, Department of Health & Welfare

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.03 - FEES FOR COMMUNITY MENTAL HEALTH SERVICES

DOCKET NO. 16-0403-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-3133, 39-3137, and 56-1007, 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 January 16, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This chapter of rule is being repealed to avoid confusion and duplication with a chapter of rules being promulgated under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," published in this Administrative Bulletin under Docket No. 16-0701-0801.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To avoid confusion and duplication with a chapter of rules promulgated under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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. This rulemaking has no anticipated fiscal impact to state general funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules are being repealed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this _____ day of _____, 2007.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036

(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

DOCKET NO. 16-0701-0801

NOTICE OF RULEMAKING - TEMPORARY & PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2008.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 16-2433, 19-2524, 20-520(i), 20-511A, 39-3137, and 39-309, 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 January 16, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This new chapter of rules updates the sliding fee scales for the adult mental health, children's mental health, and alcohol and substance use disorders programs and aligns them with the most current version of the federal poverty guidelines. This chapter also implements a fee schedule for persons convicted of a felony or serving on probation or parole.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because legislation passed during the 2007 Legislature (SB 1149) requires the Department to implement a fee schedule for persons convicted of a felony or serving on probation or parole.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Felony offenders in need of assessment, evaluation, and treatment services are being required to pay for a portion of their treatment based on their ability to pay. This rulemaking sets the schedule for these sliding fees based on federal poverty guidelines. Without this rule, access to services may be limited causing offenders to endanger themselves and others.

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.

The fiscal impact of this change is a decrease of \$2,126 in fee collection for Children's Mental Health services, which must be met by state general funds. The estimated fiscal impact on receipts collected for Adult Mental Health services is \$33,672. This fiscal impact is a decrease in collection of fees for the Adult Mental Health services. Neither of these funds will be replaced. There is no anticipated fiscal impact to the alcohol and substance disorders program.

Changes to the computerized billing system to update the current fee table used by the Daily Activity Report (DAR) automated system will be required. The estimated cost to update the fee table will be an annual cost of approximately \$1000.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being implemented to meet the requirements of newly-passed legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this _____ day of _____, 2007.

Sherri Kovach
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0701-0801

IDAPA 16
TITLE 07
CHAPTER 01

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

000. LEGAL AUTHORITY.

Under Sections 16-2433, 19-2524, 20-520(i), 20-511A, and 39-3137, Idaho Code, the Director is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. Under Section 39-309, Idaho Code, the Board of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. (1-1-08)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter of rules is IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (1-1-08)T

02. Scope. These rules provide the sliding fee schedules, based on federal poverty guidelines, and fee determination process for the adult mental health, children's mental health, and substance use disorders programs within the Department. This chapter of rules applies both to voluntary and court-ordered recipients. (1-1-08)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (1-1-08)T

003. ADMINISTRATIVE APPEALS AND COMPLAINT PROCEDURE.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-08)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in this chapter of rules. (1-1-08)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

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. (1-1-08)T

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. (1-1-08)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-08)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-08)T

05. Internet Web Site. The Department's internet web site is found at "http://www.healthandwelfare.idaho.gov." (1-1-08)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-08)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-08)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. (1-1-08)T

01. Ability to Pay. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. (1-1-08)T

02. Adjusted Gross Income. Total family annual income less allowable annual deductions. 1-1-08)T

03. Adult. An individual 18 years of age or older. (1-1-08)T

04. Adult Mental Health Program. A program administered by the Idaho Department of Health and Welfare to serve severely and persistently mentally ill adults. (1-1-08)T

05. Allowable Deductions. In determining a person's ability to pay for services, acceptable adjustments to income which are limited to the following: (1-1-08)T

a. Court-ordered obligations paid annually; and (1-1-08)T

b. Annual dependent support payments; and (1-1-08)T

c. Annual child care payments necessary to availability of employment; and (1-1-08)T

d. Annual medical expenses. (1-1-08)T

- 06. Behavioral Health Services.** Services offered by the Department to improve behavioral health issues or alcohol and substance use disorders. (1-1-08)T
- 07. Child.** An individual under eighteen (18) years. (1-1-08)T
- 08. Children’s Mental Health Program.** A program administered by the Idaho Department of Health and Welfare to serve children with serious emotional disturbance. (1-1-08)T
- 09. Client.** The recipient of services. The term “client” is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (1-1-08)T
- 10. Court-Ordered Obligations.** Financial payments which have been ordered by a court of law. (1-1-08)T
- 11. Court-Ordered Recipient.** A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (1-1-08)T
- 12. Department.** The Idaho Department of Health and Welfare. (1-1-08)T
- 13. Dependent Support.** An individual that is dependent on his family’s income for over fifty percent (50%) of his financial support. (1-1-08)T
- 14. Extraordinary Rehabilitative Expenses.** Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including, but not limited to, wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. (1-1-08)T
- 15. Family.** A family is an adult, or married adults, or adult(s) with children, living in a common residence. (1-1-08)T
- 16. Family Household.** Persons in a family related by blood, marriage, or adoption. Step parents, step children, adult siblings, and individuals receiving Supplemental Security Income (SSI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term “family household” is synonymous with the term family unit. (1-1-08)T
- 17. Federal Poverty Guidelines.** Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income amount for family units considering the number of persons in the family household. (1-1-08)T
- 18. Legal Guardian.** A representative appointed by a court of law who is responsible for making decisions related to another person. (1-1-08)T
- 19. Parent.** The person who, by birth or through adoption, is legally responsible for a child. (1-1-08)T
- 20. Recipient.** The person receiving services. The term “recipient” is synonymous with the terms: patient, participant, resident, consumer, or client. (1-1-08)T
- 21. Serious Emotional Disturbance.** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child’s functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment is assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher with “moderate” impairment in at least one (1) of the following three (3) scales: self-harmful behavior, moods/emotions, or thinking. A substance abuse disorder, conduct disorder, or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (1-1-08)T

22. Sliding Fee Scale. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and the number of persons in the family household. (1-1-08)T

23. Substance Use Disorders Program. A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. (1-1-08)T

24. Third-Party Payer. A payer other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. (1-1-08)T

011. -- 099. (RESERVED).

100. CHARGES FOR CHILDREN'S MENTAL HEALTH SERVICES.

Parents or legal guardians of children with serious emotional disturbance who receive services either directly from the Department's Children's Mental Health program or through Department contracts with private providers are responsible for paying for services provided to their child and to their family. The amount charged for each service will be in accordance with the child's parent(s) or legal guardian(s) ability to pay as determined by the sliding fee scale in Section 300 of these rules. (1-1-08)T

101. -- 199. (RESERVED).

200. CHARGES FOR ADULT MENTAL HEALTH SERVICES.

Adults receiving services either directly from the Department's Adult Mental Health program or through Department contracts with private providers are responsible for paying for services they receive. The amount charged for each service will be in accordance with the individual's ability to pay as determined by the sliding fee scale in Section 300 of these rules. (1-1-08)T

201. -- 299. (RESERVED).

300. SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.

Following is the sliding fee schedule for children and adult mental health services:

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.	
Percent of Poverty	Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.	
Percent of Poverty	Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client
180%-189%	45%
190%-199%	50%
200%-209%	55%
210%-219%	60%
220%-229%	65%
230%-239%	70%
240%-249%	75%
250%-259%	80%
260%-269%	85%
270%-279%	90%
280%-289%	95%
290%- and above	100%

(1-1-08)T

301. -- 399. (RESERVED).

400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.

Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed by a child's parent(s) or legal guardian(s) when requesting Children's Mental Health services and by adults requesting Adult Mental Health services. The fee determination process includes the following considerations: (1-1-08)T

01. Ability to Pay. Charges are based upon the number of persons in the family household and the income of those persons as determined using the following: (1-1-08)T

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter. (1-1-08)T

b. Redetermination of ability to pay will be made at least annually or upon request of the parent(s) or legal guardian(s) or at any time changes occur in family size, income, or allowable deductions. (1-1-08)T

c. In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following: (1-1-08)T

i. Court-ordered obligations; (1-1-08)T

ii. Dependent support; (1-1-08)T

- iii. Child care payments necessary for parental or legal guardian employment; (1-1-08)T
- iv. Medical expenses; (1-1-08)T
- v. Transportation; (1-1-08)T
- vi. Extraordinary rehabilitative expenses; and (1-1-08)T
- vii. State and federal tax payments, including FICA taxes. (1-1-08)T

d. Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s), legal guardian(s), or adult client's ability to pay and to maximize reimbursement for the cost of services provided. (1-1-08)T

e. It is the responsibility of the parents, guardian or adult client to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (1-1-08)T

02. Time of Payment. Payment for services will be due upon delivery of services unless other arrangements are made. (1-1-08)T

03. Charges. Using the sliding fee scale in Section 300 of this rule, an amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the service. (1-1-08)T

04. Fees Established By the Department. The maximum hourly fees or flat fees charged for Children's Mental Health services and Adult Mental Health services are established by the Department of Health and Welfare. The fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates change. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices. (1-1-08)T

400. -- 499. (RESERVED).

500. SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.

Adult clients above one hundred seventy-five (175%) poverty are not eligible for services. Following is the sliding fee schedule for adolescent and adult alcohol and substance use disorders treatment services:

TABLE 500 - SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.	
Percent of Poverty	Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client
0% - 99%	5%
100% - 104%	10%
105% - 114%	20%
115% - 124%	30%

TABLE 500 - SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.	
Percent of Poverty	Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client
125% - 134%	40%
135% - 144%	50%
145% - 154%	60%
155% - 164%	65%
165% - 175%	70%

(1-1-08)T

501. -- 599. (RESERVED).

600. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE DISORDERS SERVICES.

- 01. Ability to Pay.** Charges are based upon the number of dependents and family income. (1-1-08)T
- a.** An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (1-1-08)T
- b.** Redetermination of ability to pay will be made at least annually or upon request demonstrating that a substantial material change of circumstances has occurred in family size, income, or allowable deductions. (1-1-08)T
- c.** In determining an individual's ability to pay for services, the Department will deduct annualized amounts for: (1-1-08)T
- i. Court-ordered obligations; (1-1-08)T
 - ii. Dependent support; (1-1-08)T
 - iii. Child care payments necessary for employment; (1-1-08)T
 - iv. Medical expenses; (1-1-08)T
 - v. Transportation; (1-1-08)T
 - vi. Extraordinary rehabilitative expenses; and (1-1-08)T
 - vii. State and federal tax payments, including FICA. (1-1-08)T
- d.** Information regarding third-party payors and other resources including Medicaid, or private insurance must be identified and developed in order to fully determine the individual's ability to pay and to maximize reimbursement for the cost of services provided. (1-1-08)T

e. It is the responsibility of the individual requesting alcohol or substance use disorder services to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (1-1-08)T

02. Time of Payment. Payment for services is due thirty (30) days from the date of the billing, unless other arrangements are made. (1-1-08)T

03. Charges. Using the sliding fee scale in Section 500 of this rule, an amount will be charged based on family size, resources, income, assets, and allowable deductions, exclusive of third-party liable sources. In no case will the amount charged exceed the costs of the services. (1-1-08)T

04. Established Fee. The maximum hourly fees or flat fees charged for alcohol or substance use disorder services will be established by the Department in collaboration with the Interagency Committee on Substance Abuse Prevention and Treatment and the Board of Health and Welfare. (1-1-08)T

601. -- 999. (RESERVED).