

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 16.07.10 - Behavioral Health Development Grants (Docket #16-0710-0801).

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 10, 2007

**SUBJECT:** Department of Health and Welfare - IDAPA 16.07.10 - Behavioral Health Development Grants (Docket No. 16-0710-0801) (Temporary and Proposed New Chapter).

By this Proposed and Temporary Rule docket, the Department of Health and Welfare creates new chapter IDAPA 16.07.10 - behavioral health development grants (hereinafter "proposed rule"). The Governor's justification for the temporary rule docket is compliance with deadlines in amendments to governing law or federal programs and to confer a benefit. Specifically, the Department states that the proposed rule is needed to meet statutory requirements and to confer a benefit through grant money appropriated by the Legislature to improve mental health services statewide. The temporary rule in both dockets becomes effective on January 1, 2008.

This rule docket will be presented to the 2008 Legislative Session for review as a temporary rule, during which the Legislature will have the opportunity to continue or reject it as a temporary rule. Since this docket has not completed the proposed rule process, it will not be presented to the Legislature as a pending rule docket until the 2009 Legislative Session.

As the designated state mental health authority, the Department has been given the responsibility to help improve, expand and modify the mental health and substance abuse treatment services delivery system. The Department states that the Legislature appropriates funds for distribution as grants to regional and community treatment model services. The Department states that this new rule chapter will provide the framework for grant application requirements, criteria and distribution to meet the mental health and substance abuse treatment services needed to improve services unique to each region. The regional mental health boards and a development grant advisory group are to be utilized to assist in the grant evaluation and award process.

The Department states that this proposed rule is authorized by sections 39-3133, 39-3134A and 39-3136, Idaho Code. Section 39-3133, Idaho Code, requires the 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 39-3134A, Idaho Code, provides that the state may provide development grants for mental health and substance abuse treatment services through the state mental health authority, working in coordination as a development grant advisory group with the Department of Corrections, the Department of Juvenile Corrections, the courts and the regional mental health board. The state mental health authority is given rulemaking authority regarding the application form and process for grant applications. Section 39-3136, Idaho Code, provides that financial support for the regional mental health services are to be furnished by state appropriations and by whatever federal funds are available in an identifiable section within the mental health program budget.

According to the Department, no fee or charge is imposed by the proposed rule. The Department states that the funds for the grants are set and appropriated by the Legislature and the Department does not anticipate additional fiscal impact to itself. According to the Department, negotiated rulemaking was not conducted because the Legislature authorized the Department to set procedures for awarding grants. 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 Wednesday, January 16, 2008. All written comments must be delivered to the Department on or before Wednesday, January 23, 2008

## **ANALYSIS**

The proposed rule's sections on Legal Authority (000), Title (001.01), Appeals (003), Incorporation by Reference [none] (004), Office Hours – Mailing Address – Street Address – Telephone – Website (005) and Confidentiality of Records and Public Records Requests (006) are standard.

The proposed rule states that its Scope (section 001.02) is to establish process and procedures to be used in applying for and awarding behavioral health development grants through the state mental health authority. The Department states that funding is limited and that the grant application process is competitive. Strict compliance with the grant application process and the rules is required. The Department cautions that the rule chapter is not intended and does not establish an entitlement for or receipt of grant funding.

The Objective of the proposed rule (section 001.03) is to assist the state mental health authority in developing substance abuse or mental health treatment services as outlined in Idaho Code, including 24 hour psychiatric emergency services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities.

Under Written Interpretations (section 002), the Department states that it may have written materials pertaining to the interpretation of the proposed rule that are available for public

inspection and copying at the Department's main office. The Department cites section 67-5201(19)(b)(iv), Idaho Code, the definition of "rule," as its authority for ability to issue written interpretations. That definition states that a rule does **not** include an agency's interpretation of a rule. Thus, any written interpretation of a rule promulgated by the Department is not a part of the rule itself and thus does not have the force of law. However, the use of Written Interpretations by the Department (and many other agencies), with the requirement that an interested party access those interpretations at the Department's main office is burdensome. Accessing these "Written Interpretations" through the Department's website is difficult.

Eleven terms are defined in the proposed rule at section 010. None of these terms are defined in conflict with the relevant provisions of the Idaho Code. The proposed rule identifies the seven regions of the state, with office information, at section 050.

Grant cycle and time frames are addressed at section 060. The Department will publish a notice announcing available grants in a major daily newspaper in each regional service area prior to the beginning of the fiscal year. The closing date for applications is the date designated in the grant application, and if not so designated, no later than August first. If there is remaining or supplemental funding available, the Department may commence another grant award cycle, or, if there is insufficient time, allocate the available funding to successful grant applicants or ranked applicants on a pro-rated basis. All funds not expended in compliance with the terms and conditions of an applicant's award and grant agreement must be returned to the Department within 30 days of the end of the grant's terms and conditions.

Under section 100 of the proposed rule, the Department will develop a statewide plan for grants in coordination with the Development Grant Advisory Group and from recommendations of the State Planning Council on Mental Health and the Regional Mental Health Boards. The Department will specify the guidelines and criteria for each type of available grant in the application form. The Department will also set the evaluation criteria, weighting and ranking process, based on the needs of the regional mental health service areas and statewide needs.

The grant application process is specified in section 110, including required information and application delivery requirements. The proposed rule states that the grant application, and any attachments, are the primary sources of information for awarding a grant. A person or legal entity is not eligible to apply for a grant if there are any unresolved audit findings or prior unresolved performance issues from previous grants. A letter of support from the Regional Mental Health Board for projects located in the region where the services will be provided is required. An application cannot be submitted on behalf of a person or entity located in other regions or service areas solely for administrative convenience.

The role of the Regional Mental Health Boards is outlined in section 120. Each such board will review and make a written recommendation to the Development Grant Review Committee on grant proposals to provide services in its region. This written recommendation must be included with the grant application. Grant applications not receiving such a written

recommendation will not be considered.

The role of the Development Grant Review Committee is provided in section 130. The Committee will rank the applications on a statewide basis from highest to lowest priority on a statewide basis within 45 days following the application closing date and make recommendations to the Administrator of the Division of Behavioral Health. Rankings are to be based on factors such as the availability of funding, the degree of financial need and the degree of need in the regions and the state.

The grant award process is detailed in section 200. Absent good cause, the Administrator will award grants on a statewide basis in accordance with the written recommendations of and in the amounts approved by the Committee until all ranked applications have been funded or until all the money is gone. All applicants will be notified in writing of the disposition of their applications by October first. Awards will be formalized through an agreement specifying the eligible activities, the amount of the award, the schedule of deliverables and payments and any additional terms and conditions established by the Department. Two signed copies of the agreement must be returned to the Department within 10 days. The approval or granting of an award does not commit or obligate the Department to make additional, supplemental, continuation or other awards. Noncompliance by the Department of the rule requirements does not constitute a waiver.

The grant application reconsideration process is outlined in section 250. An applicant or a grantee may file a written request for reconsideration, containing all supporting relevant facts and reasons, with the Department's Director within 15 days of being notified of the award determination. While a timely and valid request for reconsideration is pending, an amount equal to the grant request under reconsideration will be reserved by withholding funds on a pro-rated basis from all successful grantees. The Director will issue a written decision on the reconsideration request within 10 business days. This decision constitutes a final order and is not subject to judicial review.

Corrective action, termination or reduction in funding is addressed in section 260. If a grantee fails to comply with the terms of the grant application, grant agreement, the rules or appropriate standards, goals, performance objectives and other requirements, the Department will inform the grantee of the deficiency. The Department may suspend the grant funding pending an investigation, require the grantee to correct any deficiency, allow the grantee 60 days to develop and implement a quality improvement plan to correct the deficiency within a reasonable period of time, or terminate or reduce funding and require the grantee to account for and return awarded grant funds. These remedies are cumulative and are in addition to any other rights and remedies provided by law or under the grant agreement. A reconsideration of the corrective action decision is provided. The Director's decision on the request for reconsideration is a final order, not subject to judicial review.

Conflicts of interest are dealt with at section 300. As general policy, the proposed rule

states that grant management and the award process are to be conducted in an equitable manner and that public funds are to be expended in a fair, efficient and effective manner. Every effort will be made to assure the public that no conflict of interest or appearance of impropriety exists. This policy is applicable to any person who is an employee, agent contractor, consultant, official or officer of the Department, state city or county or who is a member of any regional board, a member of the Committee, as well as the applicant, grantee or any sub-grantee receiving funds. The proposed rule provides that a covered person will not vote on any manner in which he has any substantial ownership, potential for personal financial gain, fiduciary or contractual interests, or a direct competitive relationship. At or before any meeting during which a conflict of interest arises, a covered person must make a declaration of a conflict of interest or a potential conflict of interest setting forth specified information, either by letter or verbal declaration, which will be entered into the meeting minutes. The covered person must then refrain from any discussion, recommendation, action or voting on the matter.

The Department may conduct audits and determine the scope and depth of these audits. Section 310. Providing false information on any application or document submitted under the rule is grounds for declaring the applicant ineligible or for taking any remedial action. Any and all funds determined to have been acquired on the basis of fraudulent information must be immediately returned to the Department.

#### **SUMMARY**

The proposed rule appears to be authorized under sections 39-3133, 39-3134A and 39-3136, Idaho Code.

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

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

**16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS**

**DOCKET NO. 16-0710-0801**

**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, 39-3134A, and 39-3136, 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, 2007.

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:

The Legislature has designated the Department of Health and Welfare as the state mental health authority and has given it the responsibility to help improve, expand, and modify the mental health and substance abuse treatment services delivery system. Funds are appropriated by the Legislature for distribution to regional and community treatment model services in the form of grants. This chapter of rules will provide the framework for grant application requirements, criteria, and distribution for grants to meet the mental health and substance abuse treatment services needed to improve services unique to each region. The regional mental health boards and a development grant advisory group will be utilized to assist in the evaluation and award process of the grants as provided in these rules.

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

These rules are needed to meet statutory requirements and to confer a benefit through grant money appropriated by the Legislature to improve mental health services statewide.

**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.

Funds for these grants are set and appropriated by the Legislature. This rulemaking has no anticipated additional fiscal impact to the Department.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Legislature authorized the Department to set procedures for awarding grants.

**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  
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**THE FOLLOWING IS THE TEXT FOR DOCKET 16-0710-0801**

**IDAPA 16.07.10**

**(NEW CHAPTER)**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health authority, the responsibility to administer grant funds appropriated for mental health and substance abuse treatment services as provided in Sections 39-3136 and 39-3134A, Idaho Code. Under Section 39-3133, Idaho Code, the Director of the Department of Health and Welfare is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. (1-1-08)T

**001. TITLE, SCOPE, AND OBJECTIVE.**

**01. Title.** The title of these rules is IDAPA 16.07.10, “Behavioral Health Development Grants.” (1-1-08)T

**02. Scope.** These rules establish the process and procedures to be used in applying for and awarding behavioral health development grants through the state mental health authority under Title 39, Chapter 31, Idaho Code. Funding is limited and the grant application process is competitive in nature. The applicant must strictly comply with the grant application process and these rules in order for the application to be reviewed and considered. This chapter is not intended to and does not establish an entitlement for or receipt of behavioral health development grant funding. (1-1-08)T

**03. Objective.** The objective of behavioral health development grant funding is to assist the state mental health authority in developing substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour psychiatric emergency services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities as provided in Section 39-3134A(3), Idaho Code. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), the Department may have written materials pertaining to the interpretation of this chapter of rules. These materials are available for public inspection and copying at cost in the Department’s main office, as described in Sections 005 and 006 of these rules. (1-1-08)T

**003. APPEALS.**

**01. Award Determinations and Grant Decisions.** The Department may grant, in whole or in part, deny, suspend, revoke, terminate, reserve, limit, define grant criteria, establish scoring criteria, set the terms and conditions of grant agreements, and the number of programs or entities eligible for behavioral health development



grants according to Sections 39-3133 and 39-3134A(3), Idaho Code. (1-1-08)T

**02. Reconsideration.** The Director may, upon a timely written request, reconsider an award determination or a decision, order, or action concerning a behavioral health development grant as provided in Sections 250 and 260 of these rules. (1-1-08)T

**03. Final Order.** The Director's decision on reconsideration constitutes a final order of the Department which is not subject to administrative or judicial review. *Mareesh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (1-1-08)T

**004. INCORPORATION BY REFERENCE.**  
No documents are incorporated by reference in this chapter. (1-1-08)T

**005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- 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. (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 Website.** The Department's internet website 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 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. Administrator.** The Administrator of the Division of Behavioral Health, Department of Health and Welfare, or designee. (1-1-08)T

**02. Applicant.** A person or entity submitting an application for the purpose of requesting a behavioral health development grant from the Department. (1-1-08)T

**03. Application Period.** The period of time specified in the grant application, or, if no date is specified, the period from July 1 to August 1 of the fiscal year for which funding is requested. (1-1-08)T

**04. Appropriations.** Behavioral health funding as set by the Legislature each fiscal year for the Department. (1-1-08)T

**05. Department.** The Idaho Department of Health and Welfare or its designee. The Department is

designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (1-1-08)T

**06. Development Grant Review Committee.** A committee composed of representatives from the Department of Correction, the Department of Juvenile Corrections, the courts, and the Department of Health and Welfare as designated in Section 39-3134A(3), Idaho Code. (1-1-08)T

**07. Director.** The Director of the Idaho Department of Health and Welfare or designee. (1-1-08)T

**08. Eligible Entity.** A legal entity or person, not including a state agency or subdivision of a state agency, which provides substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour emergency psychiatric services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities. (1-1-08)T

**09. Fiscal Year.** The State of Idaho's accounting period that consists of twelve (12) consecutive months from July 1 through June 30 of the next year. (1-1-08)T

**10. Grantee.** A person or entity awarded grant funds under these rules. (1-1-08)T

**11. Regional Mental Health Board.** A regional mental health board for each region or service area consisting of fourteen (14) members in accordance with Section 39-3130, Idaho Code. (1-1-08)T

**011. -- 049. (RESERVED.)**

**050. REGIONAL SERVICE AREAS.**

Idaho has seven (7) regions or service areas for grant distribution purposes. (1-1-08)T

**01. Region I - Behavioral Health.** The counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. (1-1-08)T

**a.** Region I Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814. (1-1-08)T

**b.** Phone: (208) 769-1406. (1-1-08)T

**02. Region II - Behavioral Health.** The counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. (1-1-08)T

**a.** Region II Office Address: 1118 "F" Street, P. O. Drawer B, Lewiston, ID 83501. (1-1-08)T

**b.** Phone: (208) 799-4440. (1-1-08)T

**03. Region III - Behavioral Health.** The counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. (1-1-08)T

**a.** Region III Office Address: 3402 Franklin Rd., Caldwell, ID 83605. (1-1-08)T

**b.** Phone: (208) 459-0092. (1-1-08)T

**04. Region IV - Behavioral Health.** The counties of Ada, Boise, Elmore, and Valley. (1-1-08)T

**a.** Region IV Office Address: 1720 Westgate Dr., Boise, ID 83704. (1-1-08)T

**b.** Phone: (208) 334-0893. (1-1-08)T

**05. Region V - Behavioral Health.** The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. (1-1-08)T

**a.** Region V Office Address: 823 Harrison Dr., Twin Falls, ID 83301. (1-1-08)T

b. Phone: (208) 736-2177.

**06. Region VI - Behavioral Health.** The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power. (1-1-08)T

a. Region VI Office Address: 421 Memorial Drive, Pocatello, ID 83204. (1-1-08)T

b. Phone: (208) 234-7900. (1-1-08)T

**07. Region VII - Behavioral Health.** The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton. (1-1-08)T

a. Region VII Office Address: 150 Shoup, Ste. 19, Idaho Falls, ID 83402. (1-1-08)T

b. Phone: (208) 528-5700. (1-1-08)T

**051. -- 059. (RESERVED.)**

**060. GRANT CYCLE AND TIME FRAMES.**

**01. Notification of Annual Grants and Grant Applications.** Subject to appropriations and available funding, under Title 39, Chapter 31, Idaho Code, the Department will publish a notice announcing available behavioral health development grants in a major daily newspaper in each regional service area prior to the beginning of the fiscal year. The notice will specify the available award amount, the closing date for submission of the grant application, and how to obtain grant application forms. The closing date for submission of applications will be no later than August 1 of the fiscal year in which funding is appropriated. (1-1-08)T

**02. Grant Application Submission.** A grant application must be submitted to the Department no later than the date designated in the grant application. If no date is specified in the grant application, then no later than August 1 of the fiscal year in which funding is requested. Applications not submitted within these time limits will be excluded from consideration for grant awards. (1-1-08)T

**03. Unawarded Grant Funds.** Subject to remaining or supplemental funding, the Department may commence another grant award cycle, if time allows. In the event there is insufficient time left in the fiscal year to complete another grant cycle, available funding may be allocated on a pro-rated basis to successful grant recipients or ranked applicants for the fiscal year in which the funding is available. (1-1-08)T

**04. Unused Grant Funds.** All funds not expended in compliance with the terms and conditions of an applicant's award and grant agreement must be returned to the Department within thirty (30) days of the end of the grant's terms and conditions. (1-1-08)T

**061. -- 099. (RESERVED.)**

**100. BEHAVIORAL HEALTH DEVELOPMENT GRANTS.**

**01. Develop a Statewide Plan.** The Department, as provided in Title 39, Chapter 31, Idaho Code, and under these rules, will develop a statewide plan for grants in coordination with the other members of the development grant advisory group and from recommendations of the State Planning Council on Mental Health and Regional Mental Health Boards. (1-1-08)T

**02. Grant Applications.** The Department will provide grant application forms, guidelines, and other necessary information no later than July 1 of each fiscal year in which funds have been appropriated. (1-1-08)T

**03. Grant Guidelines and Criteria.** The Department will specify the guidelines and the criteria for each type of grant that is available for the fiscal year in the grant application form. (1-1-08)T

**04. Grant Evaluation, Weighting, and Ranking Process.** The Department will set the evaluation criteria, weighting, and the ranking process to be used each year, based on the needs of the regional mental health service areas and statewide needs. (1-1-08)T

**101. -- 109. (RESERVED.)**

**110. GRANT APPLICATION PROCESS.**

**01. Application.** In order to be considered for a grant award, the applicant must submit an original and eight (8) copies of the completed grant application, including a letter of support from the appropriate Regional Mental Health Board, as provided in Section 120 of these rules. (1-1-08)T

**02. Required Information.** Only applications on forms and in formats approved by the Department will be considered for funding. An application that is missing required information will be excluded from consideration for a grant award. (1-1-08)T

**03. Application Purpose.** The grant application and any attachments submitted by the applicant are the primary sources of information for awarding a grant. (1-1-08)T

**04. Limitations.** The following limitations in Subsections 110.04.a. and 110.04.b. of this rule apply to all applications. (1-1-08)T

**a.** A person or legal entity is not eligible to apply for a grant if there are any unresolved audit findings or prior unresolved performance issues from previous grants. (1-1-08)T

**b.** An applicant must receive a letter of support for behavioral health development grant funding from the appropriate Regional Mental Health Board for projects located in the region where the services will be provided. An application cannot be submitted on behalf of a person or entity located in other regions or service areas solely for administrative convenience. (1-1-08)T

**05. Delivery of Applications.** The application must be delivered to the Department as described in Section 005 of these rules. Any application not meeting the closing date requirements will be disqualified. Applications will be considered to have been timely received under one (1) of the following: (1-1-08)T

**a.** An application sent by mail or private commercial carrier no later than the closing date, as evidenced by a U.S. Postal Service date postmark or by a commercial carrier date stamp. An applicant is responsible for obtaining postmark or commercial carrier date stamps; or (1-1-08)T

**b.** A hand-delivered application will be accepted during normal business working hours. In establishing the date of receipt of hand-delivered applications, reliance will be placed on documentary evidence of receipt maintained by the Department. (1-1-08)T

**111. -- 119. (RESERVED.)**

**120. REGIONAL RECOMMENDATION BY THE REGIONAL MENTAL HEALTH BOARD.**

**01. Regional Review.** Each Regional Mental Health Board will review and make recommendations to the Development Grant Review Committee on grant proposals to provide services in its region. (1-1-08)T

**02. Regional Recommendation.** Each Regional Mental Health Board will determine which grant proposals to recommend for its region. The Regional Mental Health Board will provide a written recommendation of support to the Development Grant Review Committee for each grant proposal it supports. The applicant must include this recommendation of support with the grant application. (1-1-08)T

**03. No Regional Support.** A grant application not receiving a written recommendation of support from the appropriate Regional Mental Health Board is not complete and will not be considered for grant awards. (1-1-08)T

121. -- 129. (RESERVED.)

**130. STATEWIDE RECOMMENDATION BY THE DEVELOPMENT GRANT REVIEW COMMITTEE.**

**01. Statewide Review.** Based upon a timely received application and written recommendation of support from the appropriate Regional Mental Health Board, the Development Grant Review Committee will rank the applications on a statewide basis and make recommendations to the Administrator. (1-1-08)T

**02. Statewide Ranking.** The Development Grant Review Committee will rank applications using such factors as availability of funding, the degree of financial need, the degree of need in the regions and the state, or other factors, including the criteria contained in the grant review and ranking section of the applicable grant application. The applications will be ranked from highest to lowest priority on a statewide basis. (1-1-08)T

**03. Statewide Recommendation.** The Development Grant Review Committee will provide the ranking of applications to the Administrator no later than forty-five (45) days following the closing date designated in the grant application, or no later than September 15 of the fiscal year in which funding is requested. (1-1-08)T

131. -- 199. (RESERVED.)

**200. GRANT AWARD AND SCHEDULE.**

**01. Determination of Grant Awards.** Absent good cause, the Administrator will award grants on a statewide basis in accordance with the written recommendations of the Development Grant Review Committee and in the amounts approved by the Development Grant Review Committee, until either the grants have been awarded for all ranked applications or there is no more money available in the funding appropriation, whichever occurs first. (1-1-08)T

**02. Notification.** The Department will notify all applicants in writing of the disposition of their grant applications by October 1 of the fiscal year in which funding is requested. Notice of a grant award is not a guarantee of present or future funding. (1-1-08)T

**03. Awarding of Grants.** Grant awards will be formalized through an agreement specifying, at a minimum, the eligible activities for which the grant is to be awarded, the amount of the grant award, the schedule of deliverables and payments, and any additional terms and conditions established by the Department. (1-1-08)T

**04. Acceptance of Grant Award by Grantee.** Acceptance of the grant award is accomplished by returning two (2) copies of the agreement bearing the original signature of a duly authorized representative of the grantee. The copies of the signed agreement are to be returned to the Department within ten (10) business days of the date of the letter transmitting the agreement to the grantee. (1-1-08)T

**05. Disbursement.** Funds for approved grants will be disbursed in accordance with the schedule of payments established in each grant agreement. (1-1-08)T

**06. No Continued Obligation.** Neither the approval of any project nor any grant award will commit or obligate the Department in any way to make any additional, supplemental, continuation, or other awards with respect to any project, proposed project, or portion of the project. A grantee must make separate application in accordance with each grant application and these rules. (1-1-08)T

**07. Not a Waiver.** Failure of the Department to require strict compliance will not be considered a waiver of requirements of these rules or in the grant application. (1-1-08)T

201. -- 249. (RESERVED.)

**250. RECONSIDERATION OF GRANT APPLICATION.**

No later than fifteen (15) days from the date of written notification from the Department of its award determination, an applicant or a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**01. Contents of Request for Reconsideration.** Any request for reconsideration must contain all pertinent facts supporting the applicant's or the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's award determination was arbitrary and capricious. (1-1-08)T

**02. Disposition of Request for Reconsideration.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its award determination. (1-1-08)T

**03. Disposition of Funds Pending Reconsideration.** While a timely and valid request for reconsideration is pending, an amount equal to the grant request under reconsideration will be reserved by the Department. This reserve is established by withholding funds on a pro-rated basis from all successful grantees. (1-1-08)T

**04. Issuance of Decision on Reconsideration.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a final order of the Department which is not subject to judicial review. (1-1-08)T

**251. -- 259. (RESERVED.)**

**260. CORRECTIVE ACTION, TERMINATION, OR REDUCTION OF FUNDING.**

**01. Determination of Non-compliance.** The remedies set forth in this section are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the grant agreement. If a grantee fails to comply with the terms of the grant application, grant agreement, these rules, or appropriate standards, goals, and other requirements, including performance objectives, the Department will inform the grantee of the deficiency and may take one (1) or more of the following actions: (1-1-08)T

**a.** Suspend grant funding pending an investigation to determine compliance with the grant application, grant agreement, these rules or appropriate standards, goals and other requirements, including performance objectives; (1-1-08)T

**b.** Require the grantee to correct any deficiency; (1-1-08)T

**c.** If feasible, allow the grantee sixty (60) days to develop and implement a quality improvement plan to correct the deficiency within a reasonable period of time; or (1-1-08)T

**d.** Terminate or reduce funding and require the grantee to account for and return awarded grant funds to the Department. (1-1-08)T

**02. Request for Reconsideration.** No later than fifteen (15) days from the date of written notification of corrective action from the Department to a grantee denying, suspending, reducing, or terminating a grant award, a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**a.** Any request for reconsideration must contain all pertinent facts supporting the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's corrective action was arbitrary and capricious. (1-1-08)T

**b.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its original decision. (1-1-08)T

**c.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a

final order of the Department which is not subject to judicial review. (1-1-08)T

**261. -- 299. (RESERVED.)**

**300. CONFLICT OF INTEREST.**

**01. General Policy.** It is the policy of the Department that grant management and the award process be conducted in an equitable manner, and that public funds be expended in a fair, efficient, and effective manner. Every effort will be made to assure the public that no conflict of interest or appearance of impropriety exists. (1-1-08)T

**02. Covered Person.** These provisions for conflict of interest apply to any person who is an employee, agent, contractor, consultant, official, or officer of the Department, state, city, or county, or who is a member of a Regional Mental Health Board, a member of the Development Grant Review Committee, applicant, grantee, or any sub-grantee receiving funds. (1-1-08)T

**03. Standard of Conduct.** The general standard of conduct is to avoid any action or inaction that might result in, or create the appearance of, any impropriety or conflict of interest. In accordance with this general standard of conduct, a covered person will not vote on any matter in which he has any substantial ownership, potential for personal financial gain, fiduciary or contractual interest, or a direct competitive relationship. Any such relationship must be immediately disclosed as provided in Subsection 300.04 of this rule. (1-1-08)T

**04. Disclosure Procedures.** At or before any meeting during which a conflict of interest arises, a covered person must make a Declaration of a Conflict of Interest, or a potential conflict of interest, either by letter or verbal declaration, and it will be entered into the minutes of the meeting. The declaration must contain the nature of the conflict, the parties involved in the conflict, the impact of the conflict on their duties, and any proposed method of resolving the conflict. The covered person must then refrain from any discussion, recommendation, action, or voting on the matter. (1-1-08)T

**301. -- 309. (RESERVED.)**

**310. AUDITS.**

The Department may conduct audits and determine the scope and depth of these audits. (1-1-08)T

**311. -- 349. (RESERVED.)**

**350. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the applicant ineligible, or for taking any and all remedial action, as provided in Section 260 of these rules. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Department immediately. (1-1-08)T

**351. -- 999. (RESERVED.)**

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

**16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS**

**DOCKET NO. 16-0710-0801**

**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, 39-3134A, and 39-3136, 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, 2007.

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:

The Legislature has designated the Department of Health and Welfare as the state mental health authority and has given it the responsibility to help improve, expand, and modify the mental health and substance abuse treatment services delivery system. Funds are appropriated by the Legislature for distribution to regional and community treatment model services in the form of grants. This chapter of rules will provide the framework for grant application requirements, criteria, and distribution for grants to meet the mental health and substance abuse treatment services needed to improve services unique to each region. The regional mental health boards and a development grant advisory group will be utilized to assist in the evaluation and award process of the grants as provided in these rules.

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

These rules are needed to meet statutory requirements and to confer a benefit through grant money appropriated by the Legislature to improve mental health services statewide.

**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.

Funds for these grants are set and appropriated by the Legislature. This rulemaking has no anticipated additional fiscal impact to the Department.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Legislature authorized the Department to set procedures for awarding grants.

**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](mailto:kovachs@dhw.idaho.gov) e-mail

**THE FOLLOWING IS THE TEXT FOR DOCKET 16-0710-0801**

**IDAPA 16.07.10**

**(NEW CHAPTER)**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health authority, the responsibility to administer grant funds appropriated for mental health and substance abuse treatment services as provided in Sections 39-3136 and 39-3134A, Idaho Code. Under Section 39-3133, Idaho Code, the Director of the Department of Health and Welfare is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. (1-1-08)T

**001. TITLE, SCOPE, AND OBJECTIVE.**

**01. Title.** The title of these rules is IDAPA 16.07.10, “Behavioral Health Development Grants.” (1-1-08)T

**02. Scope.** These rules establish the process and procedures to be used in applying for and awarding behavioral health development grants through the state mental health authority under Title 39, Chapter 31, Idaho Code. Funding is limited and the grant application process is competitive in nature. The applicant must strictly comply with the grant application process and these rules in order for the application to be reviewed and considered. This chapter is not intended to and does not establish an entitlement for or receipt of behavioral health development grant funding. (1-1-08)T

**03. Objective.** The objective of behavioral health development grant funding is to assist the state mental health authority in developing substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour psychiatric emergency services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities as provided in Section 39-3134A(3), Idaho Code. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), the Department may have written materials pertaining to the interpretation of this chapter of rules. These materials are available for public inspection and copying at cost in the Department’s main office, as described in Sections 005 and 006 of these rules. (1-1-08)T

**003. APPEALS.**

**01. Award Determinations and Grant Decisions.** The Department may grant, in whole or in part, deny, suspend, revoke, terminate, reserve, limit, define grant criteria, establish scoring criteria, set the terms and conditions of grant agreements, and the number of programs or entities eligible for behavioral health development

grants according to Sections 39-3133 and 39-3134A(3), Idaho Code. (1-1-08)T

**02. Reconsideration.** The Director may, upon a timely written request, reconsider an award determination or a decision, order, or action concerning a behavioral health development grant as provided in Sections 250 and 260 of these rules. (1-1-08)T

**03. Final Order.** The Director's decision on reconsideration constitutes a final order of the Department which is not subject to administrative or judicial review. *Mareesh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (1-1-08)T

**004. INCORPORATION BY REFERENCE.**  
No documents are incorporated by reference in this chapter. (1-1-08)T

**005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- 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. (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 Website.** The Department's internet website 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 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. Administrator.** The Administrator of the Division of Behavioral Health, Department of Health and Welfare, or designee. (1-1-08)T

**02. Applicant.** A person or entity submitting an application for the purpose of requesting a behavioral health development grant from the Department. (1-1-08)T

**03. Application Period.** The period of time specified in the grant application, or, if no date is specified, the period from July 1 to August 1 of the fiscal year for which funding is requested. (1-1-08)T

**04. Appropriations.** Behavioral health funding as set by the Legislature each fiscal year for the Department. (1-1-08)T

**05. Department.** The Idaho Department of Health and Welfare or its designee. The Department is

designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (1-1-08)T

**06. Development Grant Review Committee.** A committee composed of representatives from the Department of Correction, the Department of Juvenile Corrections, the courts, and the Department of Health and Welfare as designated in Section 39-3134A(3), Idaho Code. (1-1-08)T

**07. Director.** The Director of the Idaho Department of Health and Welfare or designee. (1-1-08)T

**08. Eligible Entity.** A legal entity or person, not including a state agency or subdivision of a state agency, which provides substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour emergency psychiatric services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities. (1-1-08)T

**09. Fiscal Year.** The State of Idaho's accounting period that consists of twelve (12) consecutive months from July 1 through June 30 of the next year. (1-1-08)T

**10. Grantee.** A person or entity awarded grant funds under these rules. (1-1-08)T

**11. Regional Mental Health Board.** A regional mental health board for each region or service area consisting of fourteen (14) members in accordance with Section 39-3130, Idaho Code. (1-1-08)T

**011. -- 049. (RESERVED.)**

**050. REGIONAL SERVICE AREAS.**

Idaho has seven (7) regions or service areas for grant distribution purposes. (1-1-08)T

**01. Region I - Behavioral Health.** The counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. (1-1-08)T

**a.** Region I Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814. (1-1-08)T

**b.** Phone: (208) 769-1406. (1-1-08)T

**02. Region II - Behavioral Health.** The counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. (1-1-08)T

**a.** Region II Office Address: 1118 "F" Street, P. O. Drawer B, Lewiston, ID 83501. (1-1-08)T

**b.** Phone: (208) 799-4440. (1-1-08)T

**03. Region III - Behavioral Health.** The counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. (1-1-08)T

**a.** Region III Office Address: 3402 Franklin Rd., Caldwell, ID 83605. (1-1-08)T

**b.** Phone: (208) 459-0092. (1-1-08)T

**04. Region IV - Behavioral Health.** The counties of Ada, Boise, Elmore, and Valley. (1-1-08)T

**a.** Region IV Office Address: 1720 Westgate Dr., Boise, ID 83704. (1-1-08)T

**b.** Phone: (208) 334-0893. (1-1-08)T

**05. Region V - Behavioral Health.** The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. (1-1-08)T

**a.** Region V Office Address: 823 Harrison Dr., Twin Falls, ID 83301. (1-1-08)T

b. Phone: (208) 736-2177.

**06. Region VI - Behavioral Health.** The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power. (1-1-08)T

a. Region VI Office Address: 421 Memorial Drive, Pocatello, ID 83204. (1-1-08)T

b. Phone: (208) 234-7900. (1-1-08)T

**07. Region VII - Behavioral Health.** The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton. (1-1-08)T

a. Region VII Office Address: 150 Shoup, Ste. 19, Idaho Falls, ID 83402. (1-1-08)T

b. Phone: (208) 528-5700. (1-1-08)T

**051. -- 059. (RESERVED.)**

**060. GRANT CYCLE AND TIME FRAMES.**

**01. Notification of Annual Grants and Grant Applications.** Subject to appropriations and available funding, under Title 39, Chapter 31, Idaho Code, the Department will publish a notice announcing available behavioral health development grants in a major daily newspaper in each regional service area prior to the beginning of the fiscal year. The notice will specify the available award amount, the closing date for submission of the grant application, and how to obtain grant application forms. The closing date for submission of applications will be no later than August 1 of the fiscal year in which funding is appropriated. (1-1-08)T

**02. Grant Application Submission.** A grant application must be submitted to the Department no later than the date designated in the grant application. If no date is specified in the grant application, then no later than August 1 of the fiscal year in which funding is requested. Applications not submitted within these time limits will be excluded from consideration for grant awards. (1-1-08)T

**03. Unawarded Grant Funds.** Subject to remaining or supplemental funding, the Department may commence another grant award cycle, if time allows. In the event there is insufficient time left in the fiscal year to complete another grant cycle, available funding may be allocated on a pro-rated basis to successful grant recipients or ranked applicants for the fiscal year in which the funding is available. (1-1-08)T

**04. Unused Grant Funds.** All funds not expended in compliance with the terms and conditions of an applicant's award and grant agreement must be returned to the Department within thirty (30) days of the end of the grant's terms and conditions. (1-1-08)T

**061. -- 099. (RESERVED.)**

**100. BEHAVIORAL HEALTH DEVELOPMENT GRANTS.**

**01. Develop a Statewide Plan.** The Department, as provided in Title 39, Chapter 31, Idaho Code, and under these rules, will develop a statewide plan for grants in coordination with the other members of the development grant advisory group and from recommendations of the State Planning Council on Mental Health and Regional Mental Health Boards. (1-1-08)T

**02. Grant Applications.** The Department will provide grant application forms, guidelines, and other necessary information no later than July 1 of each fiscal year in which funds have been appropriated. (1-1-08)T

**03. Grant Guidelines and Criteria.** The Department will specify the guidelines and the criteria for each type of grant that is available for the fiscal year in the grant application form. (1-1-08)T

**04. Grant Evaluation, Weighting, and Ranking Process.** The Department will set the evaluation criteria, weighting, and the ranking process to be used each year, based on the needs of the regional mental health service areas and statewide needs. (1-1-08)T

**101. -- 109. (RESERVED.)**

**110. GRANT APPLICATION PROCESS.**

**01. Application.** In order to be considered for a grant award, the applicant must submit an original and eight (8) copies of the completed grant application, including a letter of support from the appropriate Regional Mental Health Board, as provided in Section 120 of these rules. (1-1-08)T

**02. Required Information.** Only applications on forms and in formats approved by the Department will be considered for funding. An application that is missing required information will be excluded from consideration for a grant award. (1-1-08)T

**03. Application Purpose.** The grant application and any attachments submitted by the applicant are the primary sources of information for awarding a grant. (1-1-08)T

**04. Limitations.** The following limitations in Subsections 110.04.a. and 110.04.b. of this rule apply to all applications. (1-1-08)T

**a.** A person or legal entity is not eligible to apply for a grant if there are any unresolved audit findings or prior unresolved performance issues from previous grants. (1-1-08)T

**b.** An applicant must receive a letter of support for behavioral health development grant funding from the appropriate Regional Mental Health Board for projects located in the region where the services will be provided. An application cannot be submitted on behalf of a person or entity located in other regions or service areas solely for administrative convenience. (1-1-08)T

**05. Delivery of Applications.** The application must be delivered to the Department as described in Section 005 of these rules. Any application not meeting the closing date requirements will be disqualified. Applications will be considered to have been timely received under one (1) of the following: (1-1-08)T

**a.** An application sent by mail or private commercial carrier no later than the closing date, as evidenced by a U.S. Postal Service date postmark or by a commercial carrier date stamp. An applicant is responsible for obtaining postmark or commercial carrier date stamps; or (1-1-08)T

**b.** A hand-delivered application will be accepted during normal business working hours. In establishing the date of receipt of hand-delivered applications, reliance will be placed on documentary evidence of receipt maintained by the Department. (1-1-08)T

**111. -- 119. (RESERVED.)**

**120. REGIONAL RECOMMENDATION BY THE REGIONAL MENTAL HEALTH BOARD.**

**01. Regional Review.** Each Regional Mental Health Board will review and make recommendations to the Development Grant Review Committee on grant proposals to provide services in its region. (1-1-08)T

**02. Regional Recommendation.** Each Regional Mental Health Board will determine which grant proposals to recommend for its region. The Regional Mental Health Board will provide a written recommendation of support to the Development Grant Review Committee for each grant proposal it supports. The applicant must include this recommendation of support with the grant application. (1-1-08)T

**03. No Regional Support.** A grant application not receiving a written recommendation of support from the appropriate Regional Mental Health Board is not complete and will not be considered for grant awards. (1-1-08)T

121. -- 129. (RESERVED.)

**130. STATEWIDE RECOMMENDATION BY THE DEVELOPMENT GRANT REVIEW COMMITTEE.**

**01. Statewide Review.** Based upon a timely received application and written recommendation of support from the appropriate Regional Mental Health Board, the Development Grant Review Committee will rank the applications on a statewide basis and make recommendations to the Administrator. (1-1-08)T

**02. Statewide Ranking.** The Development Grant Review Committee will rank applications using such factors as availability of funding, the degree of financial need, the degree of need in the regions and the state, or other factors, including the criteria contained in the grant review and ranking section of the applicable grant application. The applications will be ranked from highest to lowest priority on a statewide basis. (1-1-08)T

**03. Statewide Recommendation.** The Development Grant Review Committee will provide the ranking of applications to the Administrator no later than forty-five (45) days following the closing date designated in the grant application, or no later than September 15 of the fiscal year in which funding is requested. (1-1-08)T

131. -- 199. (RESERVED.)

**200. GRANT AWARD AND SCHEDULE.**

**01. Determination of Grant Awards.** Absent good cause, the Administrator will award grants on a statewide basis in accordance with the written recommendations of the Development Grant Review Committee and in the amounts approved by the Development Grant Review Committee, until either the grants have been awarded for all ranked applications or there is no more money available in the funding appropriation, whichever occurs first. (1-1-08)T

**02. Notification.** The Department will notify all applicants in writing of the disposition of their grant applications by October 1 of the fiscal year in which funding is requested. Notice of a grant award is not a guarantee of present or future funding. (1-1-08)T

**03. Awarding of Grants.** Grant awards will be formalized through an agreement specifying, at a minimum, the eligible activities for which the grant is to be awarded, the amount of the grant award, the schedule of deliverables and payments, and any additional terms and conditions established by the Department. (1-1-08)T

**04. Acceptance of Grant Award by Grantee.** Acceptance of the grant award is accomplished by returning two (2) copies of the agreement bearing the original signature of a duly authorized representative of the grantee. The copies of the signed agreement are to be returned to the Department within ten (10) business days of the date of the letter transmitting the agreement to the grantee. (1-1-08)T

**05. Disbursement.** Funds for approved grants will be disbursed in accordance with the schedule of payments established in each grant agreement. (1-1-08)T

**06. No Continued Obligation.** Neither the approval of any project nor any grant award will commit or obligate the Department in any way to make any additional, supplemental, continuation, or other awards with respect to any project, proposed project, or portion of the project. A grantee must make separate application in accordance with each grant application and these rules. (1-1-08)T

**07. Not a Waiver.** Failure of the Department to require strict compliance will not be considered a waiver of requirements of these rules or in the grant application. (1-1-08)T

201. -- 249. (RESERVED.)

**250. RECONSIDERATION OF GRANT APPLICATION.**

No later than fifteen (15) days from the date of written notification from the Department of its award determination, an applicant or a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**01. Contents of Request for Reconsideration.** Any request for reconsideration must contain all pertinent facts supporting the applicant's or the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's award determination was arbitrary and capricious. (1-1-08)T

**02. Disposition of Request for Reconsideration.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its award determination. (1-1-08)T

**03. Disposition of Funds Pending Reconsideration.** While a timely and valid request for reconsideration is pending, an amount equal to the grant request under reconsideration will be reserved by the Department. This reserve is established by withholding funds on a pro-rated basis from all successful grantees. (1-1-08)T

**04. Issuance of Decision on Reconsideration.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a final order of the Department which is not subject to judicial review. (1-1-08)T

**251. -- 259. (RESERVED.)**

**260. CORRECTIVE ACTION, TERMINATION, OR REDUCTION OF FUNDING.**

**01. Determination of Non-compliance.** The remedies set forth in this section are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the grant agreement. If a grantee fails to comply with the terms of the grant application, grant agreement, these rules, or appropriate standards, goals, and other requirements, including performance objectives, the Department will inform the grantee of the deficiency and may take one (1) or more of the following actions: (1-1-08)T

**a.** Suspend grant funding pending an investigation to determine compliance with the grant application, grant agreement, these rules or appropriate standards, goals and other requirements, including performance objectives; (1-1-08)T

**b.** Require the grantee to correct any deficiency; (1-1-08)T

**c.** If feasible, allow the grantee sixty (60) days to develop and implement a quality improvement plan to correct the deficiency within a reasonable period of time; or (1-1-08)T

**d.** Terminate or reduce funding and require the grantee to account for and return awarded grant funds to the Department. (1-1-08)T

**02. Request for Reconsideration.** No later than fifteen (15) days from the date of written notification of corrective action from the Department to a grantee denying, suspending, reducing, or terminating a grant award, a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**a.** Any request for reconsideration must contain all pertinent facts supporting the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's corrective action was arbitrary and capricious. (1-1-08)T

**b.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its original decision. (1-1-08)T

**c.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a

final order of the Department which is not subject to judicial review. (1-1-08)T

**261. -- 299. (RESERVED.)**

**300. CONFLICT OF INTEREST.**

**01. General Policy.** It is the policy of the Department that grant management and the award process be conducted in an equitable manner, and that public funds be expended in a fair, efficient, and effective manner. Every effort will be made to assure the public that no conflict of interest or appearance of impropriety exists. (1-1-08)T

**02. Covered Person.** These provisions for conflict of interest apply to any person who is an employee, agent, contractor, consultant, official, or officer of the Department, state, city, or county, or who is a member of a Regional Mental Health Board, a member of the Development Grant Review Committee, applicant, grantee, or any sub-grantee receiving funds. (1-1-08)T

**03. Standard of Conduct.** The general standard of conduct is to avoid any action or inaction that might result in, or create the appearance of, any impropriety or conflict of interest. In accordance with this general standard of conduct, a covered person will not vote on any matter in which he has any substantial ownership, potential for personal financial gain, fiduciary or contractual interest, or a direct competitive relationship. Any such relationship must be immediately disclosed as provided in Subsection 300.04 of this rule. (1-1-08)T

**04. Disclosure Procedures.** At or before any meeting during which a conflict of interest arises, a covered person must make a Declaration of a Conflict of Interest, or a potential conflict of interest, either by letter or verbal declaration, and it will be entered into the minutes of the meeting. The declaration must contain the nature of the conflict, the parties involved in the conflict, the impact of the conflict on their duties, and any proposed method of resolving the conflict. The covered person must then refrain from any discussion, recommendation, action, or voting on the matter. (1-1-08)T

**301. -- 309. (RESERVED.)**

**310. AUDITS.**

The Department may conduct audits and determine the scope and depth of these audits. (1-1-08)T

**311. -- 349. (RESERVED.)**

**350. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the applicant ineligible, or for taking any and all remedial action, as provided in Section 260 of these rules. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Department immediately. (1-1-08)T

**351. -- 999. (RESERVED.)**