

## MEMORANDUM

TO: Germane Joint Subcommittees - Senate Health & Welfare and  
House Health & Welfare

FROM: Legislative Services Office - Paige Alan Parker

DATE: February 11, 2009

SUBJECT: 16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind, &  
Disabled (AABD) Docket #16-0305-0901  
Temporary Rule - No Analysis Done

—  
This temporary rule was received from the Department of Health & Welfare. We are sending this to you for your information only. This is a Temporary Rule and no analysis was done. Thank you.

Attachment

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0901

#### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of these temporary rules is March 1, 2009.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 56-202, Idaho Code.

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

In order to meet the Governor's Executive Order 2008-5 to reduce costs, the Department has been working with the Social Security Administration (SSA) concerning the State Supplemental Payment (SSP) program which is a state-funded program that provides financial aid to the aged, blind, and disabled population in Idaho. The Department is amending these rules for the following changes to allow the state to remain in compliance with SSA federal regulations:

1. Cap the SSP at a maximum amount of \$53 for AABD participants living in an independent living situation; and
2. Align the AABD citizenship rules for SSP with the Social Security Income regulations regarding non-qualified citizen applicants who apply after March 1, 2009.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of his Executive Order No. 2008-5.

**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.

The anticipated fiscal impact for this rulemaking is as follows:

1. Capping the State Supplement Payment (SSP) amount at \$53 will net a cost savings over a 12-month period of \$1,093,920 in state general funds.
2. Based on the number of qualified non-citizen applicants the past year, aligning AABD citizenship rules with SSA regulations for qualified non-citizens will net a cost savings over a 12-month period of \$24,080 in state general funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Peggy Cook at (208) 334-5969.

DATED this 14th day of January, 2009.

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-0901**

**102. ~~103.~~ (RESERVED).**

**1043. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.**

The applicant must provide his social security number (SSN) or proof he has applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. The SSN must be verified by the Social Security Administration (SSA) electronically. An applicant with an unverified SSN is not eligible for AABD cash or Medicaid benefits. The Department must notify the applicant in writing if eligibility is denied or lost for failure to meet the SSN requirement. (3-20-04)

**01. Application for SSN.** To be eligible, the applicant must apply for an SSN, or a duplicate SSN when he cannot provide his SSN to the Department. If the SSN has been applied for but not issued by the SSA, the Department can not deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-20-04)

**02. Failure to Apply for SSN.** The applicant may be granted a good cause exception for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: (3-20-04)

- a.** Is a member of a recognized religious sect or division of the sect; and (3-20-04)
- b.** Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number. (3-20-04)

**03. SSN Requirement Waived.** An applicant may have the SSN requirement waived when he is: (3-20-04)

- a.** Only eligible for emergency medical services as described in Section 801 of these rules; or (3-20-04)
- b.** A newborn child deemed eligible as described in Section 800 of these rules. (4-2-08)

**1054. U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.**

To be eligible for AABD cash and Medicaid, an individual must provide documentation of U.S. citizenship and identity unless he has otherwise met the requirements under Subsection 1054.09 of this rule. The individual must provide the Department with the most reliable document that is available. Documents must be originals or copies certified by the issuing agency. Copies of originals or notarized copies cannot be accepted. The Department will accept original documents in person, by mail, or through a guardian or authorized representative. ~~(4-2-08)~~(3-1-09)T

**01. Documents Accepted as Primary Level Proof of Both U.S. Citizenship and Identity.** The following documents are accepted as the primary level of proof of both U.S. citizenship and identity: (3-30-07)

- a.** A U.S. passport; (3-30-07)
- b.** A Certificate of Naturalization, DHS Forms N-550 or N-570; or (3-30-07)
- c.** A Certificate of U.S. Citizenship, DHS Forms N-560 or N-561. (3-30-07)

**02. Documents Accepted as Secondary Level Proof of U.S. Citizenship but Not Identity.** The following documents are accepted as proof of U.S. citizenship if the proof in Subsection 1054.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 1054.05 through 1054.07 of this rule to establish both citizenship and identity. ~~(4-2-08)~~(3-1-09)T

- a.** A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-30-07)

- i. United States fifty (50) states; (3-30-07)
- ii. District of Columbia; (3-30-07)
- iii. Puerto Rico, on or after January 13, 1941; (3-30-07)
- iv. Guam, on or after April 10, 1899; (3-30-07)
- v. U.S. Virgin Islands, on or after January 17, 1917; (3-30-07)
- vi. America Samoa; (3-30-07)
- vii. Swain's Island; or (3-30-07)
- viii. Northern Mariana Islands, after November 4, 1986; (3-30-07)
- b.** A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-30-07)
- c.** A report of birth abroad of a U.S. Citizen, Form FS-240; (3-30-07)
- d.** A U.S. Citizen I.D. card, DHS Form I-197; (3-30-07)
- e.** A Northern Mariana Identification Card, Form I-873; (3-30-07)
- f.** An American Indian Card issued by the Department of Homeland Security with the classification code "KIC," Form I-873; (3-30-07)
- g.** A final adoption decree showing the child's name and U.S. place of birth; (3-30-07)
- h.** Evidence of U.S. Civil Service employment before June 1, 1976; (4-2-08)
- i.** An official U.S. Military record showing a U.S. place of birth; (4-2-08)
- j.** A certification of birth abroad, FS-545; (4-2-08)
- k.** A verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; or (4-2-08)
- l.** Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship Act of 2000. (4-2-08)

**03. Documents Accepted as Third Level Proof of U.S. Citizenship but Not Identity.** The following documents are accepted as proof of U.S. citizenship if a primary or secondary level of proof is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 1054.05 through 1054.07 of this rule to establish both citizenship and identity. ~~(4-2-08)~~(3-1-09)T

- a.** A written hospital record on hospital letterhead established at the time of the person's birth that was created five (5) years before the initial application date that indicates a U.S. place of birth; (4-2-08)
- b.** A life, health, or other insurance record that was created at least five (5) years before the initial application date and that indicates a U.S. place of birth; (4-2-08)
- c.** A religious record recorded in the U.S. within three (3) months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made. The record must be an official record recorded with the religious organization; or (4-2-08)

**d.** An early school record showing a U.S. place of birth. The school record must show the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the names and places of the birth of the child's parents. (4-2-08)

**04. Documents Accepted as Fourth Level Proof of U.S. Citizenship but Not Identity.** The following documents are accepted as proof of U.S. citizenship only if documents in Subsections 1054.01 through 1054.03 of this rule do not exist and cannot be obtained for a person who claims U.S. citizenship. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 1054.05 through 1054.07 of this rule to establish both citizenship and identity. (~~4-2-08~~)(3-1-09)T

- a.** Federal or state census record that shows the individual has U.S. citizenship or a U.S. place of birth; (3-30-07)
- b.** One (1) of the following documents that shows a U.S. place of birth and for a participant who is sixteen (16) years of age or older was created at least five (5) years before the application for Medicaid. For a child under sixteen (16) years of age, the document must have been created near the time of birth; (4-2-08)
  - i.** Seneca Indian tribal census record; (3-30-07)
  - ii.** Bureau of Indian Affairs tribal census records of the Navajo Indians; (3-30-07)
  - iii.** U.S. State vital Statistics official notification of birth registration; (3-30-07)
  - iv.** A delayed U.S. public birth record that was recorded more than five (5) years after the person's birth; (4-2-08)
  - v.** Statement signed by the physician or midwife who was in attendance at the time of birth; (3-30-07)
  - vi.** Medical (clinic, doctor, or hospital) record; (3-30-07)
  - vii.** Institutional admission papers from a nursing facility, skilled care facility or other institution; (4-2-08)
  - viii.** Bureau of Indian Affairs (BIA) roll of Alaska Natives; or (4-2-08)
- c.** A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct." A declaration is accepted for proof of U.S. citizenship or naturalization if no other documentation is available and complies with the following: (4-2-08)
  - i.** Declarations must be made by two (2) persons who have personal knowledge of the events establishing the individual's claim of U.S. citizenship; (3-30-07)
  - ii.** One (1) of the persons making a declaration cannot be related to the individual claiming U.S. citizenship; (3-30-07)
  - iii.** The persons making the declaration must provide proof of their own U.S. citizenship and identity; and (3-30-07)
  - iv.** A declaration must be obtained from the individual applying for Medicaid, a guardian, or representative that explains why the documentation does not exist or cannot be obtained. (3-30-07)

**05. Documents Accepted for Proof of Identity but Not Citizenship.** The following documents are accepted as proof of identity. They are not proof of citizenship and must be used in combination with at least one (1) document listed in Subsection 1054.02 through 1054.04 of this rule to establish both citizenship and identity. (~~4-2-08~~)(3-1-09)T

- a.** A state-issued driver's license bearing the individual's picture or other identifying information such

as name, age, gender, race, height, weight, or eye color; (3-30-07)

**b.** A federal, state, or local government-issued identity card with the same identifying information that is included on driver's licenses as described in Subsection 1054.05.a of this rule; ~~(3-30-07)~~(3-1-09)T

**c.** School identification card with a photograph of the individual; (3-30-07)

**d.** U.S. Military card or draft record; (3-30-07)

**e.** Military dependent's identification card; (3-30-07)

**f.** U. S. Coast guard Merchant Mariner card; (3-30-07)

**g.** Certificate of Degree of Indian blood; (4-2-08)

**h.** Native American Indian or Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual; (4-2-08)

**i.** A cross-match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system; or (4-2-08)

**j.** A declaration signed under the penalty of perjury by the facility director or administrator of a residential care facility where a disabled participant resides may be accepted as proof of identity when the individual does not have or cannot get any document in Subsections 1054.05.a. through 1054.05.i. of this rule. ~~(4-2-08)~~(3-1-09)T

**06. Additional Documents Accepted for Proof of Identity.** If the participant provides citizenship documentation as described in Subsections 1054.02 or 1054.03 of this rule, three (3) or more corroborating documents may be used to prove identity. ~~(4-2-08)~~(3-1-09)T

**07. Identity Rules for Children.** The following documentation of identity for children under sixteen (16) may be used: (3-30-07)

**a.** School records may be used to establish identity. Such records also include nursery or daycare records. (3-30-07)

**b.** Clinic, doctor, or hospital records. (4-2-08)

**c.** A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct," if documents listed in Subsection 1054.02 of this rule are not available. A declaration may be used if it meets the following conditions: ~~(3-30-07)~~(3-1-09)T

**i.** It states the date and place of the child's birth; and (3-30-07)

**ii.** It is signed by a parent or guardian. (3-30-07)

**d.** A declaration can be used for a child up to the age of eighteen (18) when documents listed in Subsection 1054.05.a. through 1054.05.c. of this rule are not available. ~~(4-2-08)~~(3-1-09)T

**e.** A declaration cannot be used for identity if a declaration for citizenship documentation was provided for the child. (3-30-07)

**08. Eligibility for Applicants and Medicaid Participants Who Do Not Provide Citizenship and Identity Documentation.** (3-30-07)

**a.** Eligibility will be denied to any applicant who does not provide proof of citizenship and identity documentation; (3-30-07)

**b.** Any Medicaid participant, who does not provide proof of citizenship and identity documentation at a scheduled renewal and who is making a good faith effort to obtain documentation, will not be terminated from Medicaid for lack of documentation unless the participant: (3-30-07)

i. Does not meet other eligibility criteria required in this chapter of rules; or (3-30-07)

ii. Refuses to obtain the documentation. (3-30-07)

**09. Individuals Considered as Meeting the U.S. Citizenship and Identity Documentation Requirements.** The following individuals are considered to have met the U.S. citizenship and identity documentation requirements, regardless of whether documentation required in Subsections 1054.01 through 1054.08 of this rule is provided: ~~(4-2-08)~~(3-1-09)T

**a.** Supplemental Security Income (SSI) recipients; (4-2-08)

**b.** Individuals determined by the SSA to be entitled to or are receiving Medicare; (4-2-08)

**c.** Social Security Disability Income (SSDI) recipients; and (4-2-08)

**d.** Adoptive or foster care children receiving assistance under Title IV-B or Title IV-E of the Social Security Act. (4-2-08)

**10. Assistance in Obtaining Documentation.** The Department will assist individuals who are mentally or physically incapacitated and who lack a representative to assist them in obtaining such documentation. (3-30-07)

**11. Provide Documentation of Citizenship and Identity One Time.** When an individual has provided citizenship and identity documents, changes in eligibility will not require an individual to provide such documentation again unless later verification of the documents provided raises a question of the individual's citizenship or identity. (3-30-07)

**1065. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible for AABD cash and Medicaid, an individual must be a member of one (1) of the groups listed in Subsections 1065.01 through 1065.17 of these rules. An individual must also provide proof of identity as provided in Section 1054 of these rules. ~~(1-28-08)~~(3-1-09)T

**01. U.S. Citizen.** A U.S. Citizen. (3-30-07)

**02. U.S. National, National of American Samoa or Swain's Island.** A U. S. National, National of American Samoa or Swain's Island. (3-30-07)

**03. Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)

**a.** At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-30-07)

**b.** The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)

**c.** The child is under eighteen (18) years of age; (3-30-07)

**d.** The child is a lawful permanent resident; and (3-30-07)

**e.** If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)

**04. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-30-07)

**05. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-30-07)

**06. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) and remained continuously present in the U.S. until they became a qualified alien. (3-30-07)

**07. Non-Citizen Entering on or After August 22, 1996.** A non-citizen who entered on or after August 22, 1996, and;

**a.** Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)

**b.** Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)

**c.** Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)

**d.** Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-04)

**e.** Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry. (3-30-07)

**08. Qualified Non-Citizen Entering on or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-30-07)

**09. American Indian Born in Canada.** An American Indian born in Canada under 8 U.S.C. 1359. (3-30-07)

**10. American Indian Born Outside the U.S.** An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-30-07)

**11. Qualified Non-Citizen Child Receiving Federal Foster Care.** A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-30-07)

**12. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

**a.** Is under the age of eighteen (18) years; or (3-20-04)

**b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

**i.** Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

**ii.** Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in

persons. (3-30-07)

**13. Qualified Non-Citizen Receiving Supplement Security Income (SSI).** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), and is receiving SSI; or (3-20-04)

**14. Permanent Resident Receiving AABD Cash On August 22, 1996.** A permanent resident receiving AABD cash on August 22, 1996. (3-20-04)

**15. Afghan Special Immigrants.** An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007, are eligible for six (6) months from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (12-26-07)T

**16. Iraqi Special Immigrants.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008, is eligible for eight (8) months from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (1-28-08)T

**17. Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements.** Individuals who do not meet the citizenship or qualified non-citizen requirements in Subsections 1065.01 through 1065.16 of this rule, may be eligible for emergency medical services if they meet all other conditions of eligibility. ~~(1-28-08)T~~(3-1-09)T

**106. QUALIFIED NON-CITIZEN ELIGIBILITY REQUIREMENTS FOR AABD CASH.**

**01. Eligibility Requirements for AABD Cash Beginning March 1, 2009.** Beginning with applications dated March 1, 2009, to be eligible for AABD cash assistance a qualified non-citizen must meet the requirements in Section 105 of these rules and must meet the eligibility requirements for Supplemental Security Income (SSI) payments. (3-1-09)T

**02. Receiving AABD Cash Prior to March 1, 2009.** A qualified non-citizen who was eligible for and received an AABD cash payment for February 2009, but does not meet the SSI eligibility requirements, will continue to receive an un-capped cash benefit as long as all other eligibility requirements are met until one (1) of the following occurs: (3-1-09)T

**a. A break in the qualified non-citizen's AABD cash payment occurs because he failed to complete a redetermination for benefits; or** (3-1-09)T

**b. The qualified non-citizen has not become a naturalized citizen and two (2) years have passed from March 1, 2009, and he does not meet the eligibility requirements for SSI payments.** (3-1-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. FINANCIAL NEED AND AABD CASH AMOUNT.**

**01. Meet Eligibility for Financial Need.** To be eligible for AABD cash and Medicaid, the participant must have financial need. The participant has financial need if his allowances, as described in Sections 501 through 513 of these rules, are more than his income. The amount of financial need is the amount that the allowances exceed income.

**02. Maximum Monthly AABD Cash Payment.** If the participant is eligible, his AABD cash payment is the difference between his financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. The maximum monthly AABD cash payment, for a participant described in Subsections 501.01 and 501.02 of these rules, is fifty-three (\$53) dollars. AABD cash is paid electronically as set forth in IDAPA 16.03.20, "Rules Governing Electronic Payments (EP) of Public Assistance, Food Stamps, and Child Support." ~~(3-30-07)~~(3-1-09)T