

Dear Senators LODGE, Broadsword & LeFavour, and  
Representatives BLOCK, Nielsen & Rusche:

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

IDAPA 16.03.09 - Medicaid Basic Plan Benefits (Docket No. 16-0309-0904) (Proposed).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by  
the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice  
to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis  
from Legislative Services. The final date to call a meeting on the enclosed rules is no later than  
11-20-09. If a meeting is called, the subcommittee must hold the meeting within forty-two (42)  
days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting  
on the enclosed rules is 12-21-09.

\_\_\_\_\_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:** November 2, 2009

**SUBJECT:** Department of Health and Welfare - IDAPA 16.03.09 - Medicaid Basic Plan Benefits (Docket No. 16-0309-0904) (Proposed)

By this proposed rule docket, the Department of Health and Welfare seeks to amend IDAPA 16.03.09, dealing with the Medicaid Basic Plan Benefits (Docket No. 16-0309-0904) (hereinafter “proposed rule”). The purpose of the proposed rule, as stated by the Department, is to remove the more restrictive cap for the Preventive Health Assistance (PHA) benefit. Other purposes are to align pharmacy provider qualifications, to remove references to sporting and fitness programs, to remove reference to vouchers, to require prior authorizations for PHA services and products and to restrict use of Wellness PHA points earned to offsetting premiums. varies with the docket:

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

According to the Department, no fee or charge is imposed by the proposed rule and there is a minimal impact to the General Fund by the proposed rule. According to the Department, no negotiated rulemaking was conducted because this is a benefit that is being amended and is

removing a limitation. The time to request a public hearing or to deliver written comments to the Department has passed.

### **ANALYSIS**

The proposed rule removes a provision that allows PHA points to be exchanged for a voucher to purchase products or services specified in the rule. It also removes a cap of 200 Behavioral and Wellness PHA points that can be earned in a benefit year. Section 622.01. The proposed rule eliminates sporting or fitness programs and sports safety equipment from the list of PHA coverages. Existing rule sections 622.03 and 04. Under the proposed rule, Wellness PHA benefit points must be used to offset premiums. Under the existing rule, these points are to be used to offset delinquent premiums before a voucher [no longer permitted under the proposed rule] can be issued for products or services. Section 622.05.

The initial 30 PHA points award when the Wellness benefit is eliminated by the proposed rule, as is a voucher provision. Section 623.02. Under section 624, additional voucher provisions are deleted. In their place, a behavioral PHA vendor must have a fully-executed provider agreement on file with the Department prior to providing services or products and request prior authorization from the Department for each product or service provided as a PHA benefit. Sections 624.01 and 02. A medication and pharmaceutical supplies vendor must be a pharmacy registered by the Department for a specific location where the service is to be performed or, for an out-of-state provider shipping or mailing a prescription into Idaho, the vendor must have a valid mail order license issued by the Idaho Board of Pharmacy and be properly enrolled as a Medicaid provider. Section 624.03. The qualifications and duties for sporting or fitness program vendors and for sports safety equipment vendors are deleted by the proposed rule. Existing rule 624.05 and 06.

Under the proposed rule, the vendor may bill the participant for the difference between the Department's reimbursement and the vendor's usual and customary charge for Behavioral PHA products or services, with prior participant agreement. Section 625. Again, voucher provisions are removed from this section.

### **SUMMARY**

The Department's proposed rule appears to be authorized under sections 56-202(b), 56-203(i) and 56-253(8), Idaho Code.

cc: Department of Health and Welfare  
Tamara Prisock and Robin Pewtress

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0904

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency and the Board of Health and Welfare has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), and 56-250 through 56-257, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Preventive Health Assistance (PHA) benefit currently has a cap on how many points a child can earn when the child participates in both the Behavioral PHA and Wellness PHA at the same time. This cap is less than the cap for a child who does not participate in both types of PHA concurrently. The Department is removing the more restrictive cap to allow a participant to earn the maximum number of points for both PHA types. Other changes are being made to align pharmacy provider qualifications, remove references to sporting and fitness programs, remove references to vouchers, require prior authorization for PHA services and products, and to restrict use of Wellness PHA points earned to offsetting premiums.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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 to the state general funds is minimal.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this is a benefit that is being amended, and is removing a limitation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Robin Pewtress at (208) 364-1892.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 25th day of August, 2009.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET 16-0309-0904

**622. PREVENTIVE HEALTH ASSISTANCE (PHA): COVERAGE AND LIMITATIONS.**

**01. Point System.** The PHA benefit uses a point system to track points earned and used by a participant. ~~Points earned by a participant can be exchanged for a voucher to purchase products or services as specified in Subsections 622.02 through 622.06 of this rule.~~ Each point equals one (1) dollar. (3-30-07)(\_\_\_\_)

**a.** Maximum Benefit Points. (3-30-07)

**i.** The maximum number of points that can be earned for a Behavioral PHA is two hundred (200) points each benefit year. (3-30-07)

**ii.** The maximum number of points that can be earned for a Wellness PHA benefit is one hundred twenty (120) points each benefit year. (3-30-07)

~~**iii.** The total maximum number of points that can be earned by a participant who has both a Behavioral and a Wellness PHA is two hundred (200) points each benefit year. (3-30-07)~~

**b.** Each participant is limited to one (1) Behavioral PHA benefit at any point in time. (3-30-07)

**c.** Points expire and are removed from a participant's PHA benefit at the end of the participant's benefit year. (3-30-07)

**d.** Points earned for a specific participant's PHA benefit cannot be transferred to or combined with points in another participant's PHA benefit. (3-30-07)

**02. Medications and Pharmaceutical Supplies.** Medications and pharmaceutical supplies must be purchased from a licensed pharmacy. (3-30-07)

**a.** Each medication and pharmaceutical supply must have a primary purpose directly related to weight management or tobacco cessation. (3-30-07)

**b.** Each medication and pharmaceutical supply must be approved by the FDA, or specifically recommended by the participant's PCP, or a referred physician specialist. (3-30-07)

~~**03. Sporting or Fitness Program.** (3-30-07)~~

~~**a.** Each program must emphasize safety and improved physical health. (3-30-07)~~

~~**b.** Each program must be approved by any and all applicable regulatory bodies. (3-30-07)~~

~~**04. Sports Safety Equipment.** Each piece of sports safety equipment must afford protection or otherwise support safe participation in a sport with an expected outcome of improved physical health, and meet any and all established, applicable independent standards related to the product. (3-30-07)~~

**053. Weight Management Program.** Each program must provide weight management services and must include a curriculum that includes at least one (1) of the three (3) following areas: (3-30-07)

**a.** Physical fitness; (3-30-07)

**b.** Balanced diet; or (3-30-07)

**c.** Personal health education. (3-30-07)

**064. Participant Request for Coverage.** A participant can request that a previously unidentified product or service be covered. The Department will approve a request if the product or service meets the requirements described in this section of rule and the vendor meets the requirements in Section 624 of these rules. (3-30-07)

**075. Premiums.** (3-30-07)

**a.** Wellness PHA benefit points must be used to ~~pay~~ offset a participant's ~~delinquent~~ premiums, ~~if any, before a voucher can be issued for products or services.~~ (3-30-07)(\_\_\_\_)

**b.** Only premiums that must be paid to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children" can be offset by PHA benefit points. (3-30-07)

**086. Hearing Rights.** A participant does not have hearing rights for issues arising between the participant and a chosen vendor. (3-30-07)

**623. PREVENTIVE HEALTH ASSISTANCE (PHA): PROCEDURAL REQUIREMENTS.**

**01. Behavioral PHA.** (3-30-07)

**a.** A PHA benefit will be established for each participant who meets the eligibility criteria for Behavioral PHA. A participant must complete a PHA Benefit Agreement Form prior to earning any points. (3-30-07)

**b.** Each participant who chooses a goal of tobacco cessation must enroll in a tobacco cessation program. (3-30-07)

**c.** Each participant who chooses a goal of weight management must participate in a physician approved or monitored weight management program. (3-30-07)

**d.** An initial one hundred (100) points are earned when the agreement form is received by the Department and the benefit is established. (3-30-07)

**e.** An additional one hundred (100) points can be earned by a participant who completes his program or reaches a chosen, defined goal. The vendor monitoring the participant's progress must verify that the program was completed or the goal was reached. (3-30-07)

**02. Wellness PHA.** (3-30-07)

**a.** A PHA benefit will be established for each participant who meets the eligibility criteria for Wellness PHA. Each participant must demonstrate that he has received recommended wellness visits and immunizations for his age prior to earning any points. (3-30-07)

~~**b.** An initial thirty (30) points are earned when the benefit is established. (3-30-07)~~

~~**eb.** An additional thirty Ten (310) points can be earned each quarter month by a participant who receives all recommended wellness visits and immunizations for his age during the benefit year. (3-30-07)(\_\_\_\_)~~

~~**03. Vouchers.** The participant must contact the Department to request a voucher to purchase selected products or services. The participant must deliver the voucher to the vendor prior to receiving products or services. (3-30-07)~~

**043. Approved Products and Services.** The reimbursable products and services of each vendor must be prior approved by the Department. (3-30-07)

**624. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER QUALIFICATIONS AND DUTIES.**

~~01. **Voucher Acceptance.** Each vendor must be willing to accept PHA vouchers and bill the Department for reimbursement. (3-30-07)~~

~~02. **Voucher Expiration.** The vendor must accept a voucher prior to the expiration date printed on the voucher. (3-30-07)~~

~~031. **Provider Agreement.** A voucher signed by a behavioral PHA vendor and presented to the Department for reimbursement constitutes must have a fully-executed provider agreement on file with the Department prior to providing services or products. (3-30-07)( )~~

~~02. **Prior Authorization.** A behavioral PHA vendor must request prior authorization from the Department for each product or service provided as a PHA benefit. ( )~~

~~043. **Medications and Pharmaceutical Supplies Vendor.** Each vendor must be a licensed pharmacy and must meet the criteria in Section 664 of these rules for prescription drug provider qualifications and duties. (3-30-07)( )~~

~~05. **Sporting or Fitness Program Vendor.** Each vendor must be able to provide a sporting or fitness program as described in Section 622 of these rules. (3-30-07)~~

~~06. **Sports Safety Equipment Vendor.** (3-30-07)~~

~~a. Each vendor must be established as a business serving the general public that provides sports safety equipment. (3-30-07)~~

~~b. Each vendor must meet all state, county, and local business licensing requirements. (3-30-07)~~

~~c. Each vendor must be able to provide sports safety equipment as described in Section 622 of these rules. (3-30-07)~~

~~074. **Weight Management Program Vendor.** (3-30-07)~~

~~a. Each vendor must be established as a business that serves the general public. (3-30-07)~~

~~b. Each vendor must meet all state, county, and local business licensing requirements. (3-30-07)~~

~~c. Each vendor must be able to provide a weight management program as described in Section 622 of these rules. (3-30-07)~~

**625. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER REIMBURSEMENT.**

With the prior agreement of the participant, the vendor may bill the participant for the difference between the Department's reimbursement and the vendor's usual and customary charge for Behavioral PHA products or services provided. ( )

~~01. **Voucher Must Be Signed.** The Department, the participant, and the vendor must sign each PHA voucher for which a vendor requests reimbursement. (3-30-07)~~

~~02. **Voucher Amount.** The vendor must agree to accept the amount stated on each PHA voucher as full or partial payment of approved products and services. (3-30-07)~~

~~03. **Voucher Redemption.** Each voucher must be redeemed by the vendor within ninety (90) days of providing the product or service to the participant. (3-30-07)~~