

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 16.03.13 - Consumer-Directed Services

(Docket No. 16-0313-0901).

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
11-13-09. 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 12-11-09.

_____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: October 26, 2009

SUBJECT: Department of Health and Welfare - IDAPA 16.03.13 - Consumer-Directed Services (Docket No. 16-0313-0901) (Proposed and Temporary)

This Proposed and Temporary Rule docket (Docket No. 16-0313-0901), dealing with consumer-directed services (hereinafter "proposed rule"), represents the first amendment to this rule chapter since it was rewritten in 2006. The Governor's justification for the temporary rule is to protect the public health, safety or welfare. The temporary rule becomes effective on January 1, 2010.

According to the Department, the proposed rule is authorized pursuant to sections 56-202, 56-203 and 56-250 through 257, Idaho Code. Section 56-202(b) provide the Department with general and broad rulemaking authority. Section 56-56-203(g) permits the Department to define persons entitled to medical assistance in such terms as will meet requirements for federal financial participation. Section 56-253(8) gives the Department's Director the authority to promulgate rules consistent with that Act. Sections 56-256 and 56-267, Idaho Code, deal with personal health accounts and co-payments.

The Department states that the proposed rule allows for the development of a uniform, state-wide financial management model for all Medicaid programs, which will allow all self-directed fiscal services provided to Medicaid participants to operate under the administrative rules. Specifically, the Department states that the proposed rule will align, clarify and augment the rules that govern self-direction programs to include self-direction services under the Home and Community-Based Services waiver for the Aged and Disabled and will replace the requirement for a contract with the fiscal employer agent with the requirement to use a provider agreement.

According to the Department, no fee or charge is imposed by the temporary and proposed rule and there is no anticipated fiscal impact to the General Fund as a result of this rulemaking. According to the Department, negotiated rulemaking was conducted pursuant to notice. 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 October 21, 2009. All written comments must be delivered to the Department on or before October 28, 2009.

ANALYSIS

A. Standard Sections

The scope of the rule has been simplified to that of covering benefit options for participants who are eligible for consumer-directed services in Idaho. Section 001.02. The criminal history and background check requirements use the term “fiscal agent” in lieu of “fiscal employer agent” and eliminate the need for the fiscal agent to verify that each support broker has complied with the Department’s criminal history and background check rule. Section 009.01.a. The proposed rule clarifies that it is the responsibility of the community support worker to report any additional criminal convictions to the participant. Section 009.01.c. Each nonwaived community support worker, support broker and financial management co-employer must participate in a check in accordance with Department rule. Sections 009.01.e and 02.

B. Definitions

The proposed rule adds 12 new definitions: “employer of record,” “employment agreement,” “fiscal agent,” “financial management co-employer,” “financial management co-employer service (FMCS),” “HCBS A&D waiver,” “HCBS DD waiver,” “personal assistance services,” “readiness review,” “self-directed community supports (SDCS),” “support and spending plan” and “waiver services.” The “fiscal agent” is different from the “fiscal employer agent.” A “fiscal agent” is an agency that provides financial management services to participants, section 010.07, while a “fiscal employer agent” provides such services to a participant who has chosen the SDCS option, section 010.08. The proposed rule clarifies that distinction throughout. The proposed rule also provides that a fiscal employer agent is appointed by the participant and the agent’s duties are defined under the IRS Code. Section 010.08. The compliance with the IRS Code requirement is repeated in section 130.01.

C. FMCS and SDSCS Options

Under the proposed rule, fiscal management co-employer service (FMCS) and self-directed community supports (SDCS) represent two consumer-directed service options. Under the FMCS option, the participant utilizes the services of a financial management co-employer who, in addition to the co-employer responsibilities, provides financial management services to the participant. Section 010.10, Under the SDSCS option, the participant acts as the employer of record, choosing the type and frequency of support he wants, negotiating the rate of payment and

hiring the person or agency he prefers to provide those supports. Section 010.17. Much of the proposed rule is dedicated to distinguishing between these two options, including eligibility, coverage and limitations, participant responsibilities, fiscal employer agent requirements and limitations, fiscal employer agent duties and responsibilities, support broker requirement and limitations, support broker duties and responsibilities, community support worker limitations, paid community support worker duties and responsibilities, support and spending plan development, procedural requirements, provider qualifications and duties, and provider reimbursement. Within each option, there may be separate provisions regarding developmentally disabled (HCBS DD) waiver participants and home and community-based services for the aged and disabled (HCBS A&D) waiver participants.

Existing eligibility section 101 is deleted by the proposed rule and replaced with new section 050, addressing eligibility determination for consumer-directed services. Eligibility for two options are described: self-directed community supports (SDCS); and financial management co-employer services (FMCS) . Both SDCS and FMCS are defined terms, For eligibility purposes, the difference in these two options is that for the SDCS option the participant and his legal representative (if one exists) must agree in writing to specified guidelines and responsibilities.

Under the SDCS option, the participant must hire community support workers through the fiscal employer agent. Section 110. The proposed rule distinguishes between and lists the community support worker activities of the HCBS DD waiver participant and home and HCBS A&D waiver participant. Identified community support worker activities for HCBS A&D participants are: the provision of identity supports (licensing or certification may be required); and attendant care and homemaker services. New section 110.04.

The coverage requirements and limitations for the FMCS option is provided at new section 161. Under this option, the participant must purchase financial management co-employer services and hire community support workers through this co-employer. The Department enters into a provider agreement with a qualified co-employer. For HCBS A&D waiver participants, the community support worker provides identified supports to the participant and must be licensed or certified if the supports so require. The participant, the participant's family or the individual with power of attorney for the participant must assume responsibility for the direction of the participant's care and provider selection and supervision.

The participant responsibilities for the SDCS option are identified in section 120. New is the responsibility for negotiating payment rates for Department-approved community support worker services the participant wants to purchase that are within market rates and that include the employment agreement details. Section 120.04.

Under the FMCS option, the participant and co-employer are both responsible for oversight to ensure that the services provided under the HCBS A&D waiver are provided in accordance with Medicaid Enhanced Plan Services. Section 167.

The support broker requirements and limitations for the SDCS option are specified in section 135. These requirements and limitations apply to both HCBS DD and A&D waiver participants. When the waiver participant has been diagnosed with a developmental delay, the support broker must have at least two years verifiable experience working with individuals with developmental disabilities. Section 135.01.c. The proposed rule specifies that the employment is between the broker and the participant, with the participant having the power to terminate that agreement. Section 135.04.

Under the FMCS option, the financial management co-employer must be the employer of record for each community support worker. The co-employer cannot be a spouse of any participant to whom the provider is supplying services. Each co-employer must have a signed provider agreement with the Department. The duties of the co-employer are specified in the proposed rule. A criminal history check is required. Section 168.

For the SDCS option, the proposed rule provides separate subsections for the support and spending plan requirements for HCBS DD and A&D waiver participants. New subsection 160.03 specifies the plan requirements for the A&D waiver participants. The plan requirements for the A&D waiver participants do not specify the areas of the participant's wants, needs and goals as does the plan requirements for the DD waiver participant. Only consumer-directed Medicaid waiver and consumer-directed rehabilitative or habilitative services can be purchased under the SDCS option for HCBS DD waiver participants. The participant, the support broker and the Department are required to work together to assure there is no interruption of services when transitioning from waiver services covered under the Medicaid Enhanced Plan Benefits. Section 160.04.a. Nonconsumer-directed services do not include paid community support worker services, although a participant who has selected the self-directed option may choose to live with recipients of nonconsumer-directed Medicaid services. Section 160.04.b.

Support and spending plan requirements for the FMCS option are addressed in new section 166. The plan must: identify all supports and services, both paid and non-paid, the participants wants and needs to live successfully in his community; include paid or non-paid self directed community support worker services that focus on the participant's wants, needs and goals; include responses to emergencies; reflect the wants, preference and needs of the whole person; identify risk or safety concerns; specify the supports or services needed to address each risk with at least three backup plans; list sources of payment for the listed supports and services; list the budgeted amount planned in relation to the needed support; identify the amount of attendant care and homemaker services being purchased and the frequency and duration of the services to be provided. The co-employer is to compare and match the support and spending plan to the time sheets or invoices prior to payment.

Under the FMCS option, HCBS A&D waiver service providers are to be paid on a fee-for-service basis as established by the Department. Fee calculation includes both services and mileage. Mileage will not be paid for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided waiver or state plan transportation. Section 169.

The SDCS participant must be willing to work with a support broker and a fiscal employer agent and a DMCS participant must be willing to work with a financial manager co-employer or face a discontinuation of consumer-directed services. Section 210.01.

D. Fiscal Employer Agents

As noted above, a fiscal employer agent provides financial management services to participants who have chosen the SDCS option. New sections 300 through 314 provide detailed requirements regarding the fiscal employer agent's duties and responsibilities, including definitions specific to these duties and responsibilities, tax payment and record keeping, customer services, personal and confidential information, the enrollment process, the payment process, an annual participant survey, quality assurance, a disaster recovery plan, a transition plan, performance metrics, reports, payment requirements, termination of the provider agreement, and noncompliance with the performance metrics.

E. Miscellaneous Provisions

The proposed rule clarifies that an individualized budget is set on individual factors related to the participant's assessed needs, rather than disability. The subsection on implementation of budget-setting methodology is deleted by the proposed rule. Section 190.

Specified participant experience outcomes gathered by the Department annually as part of the quality assurance process are limited to HCBS DD waiver participants. Section 200.02.

SUMMARY

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

cc: Department of Health and Welfare
Tamara Prisock and Susan Scheuerer

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.13 - CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2010.

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 56-202, 56-203, and 56-250 through 257, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 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 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 Department is changing these rules to allow for the development of a uniform, state-wide financial management model for all Medicaid programs. This will allow all fiscal services provided to Medicaid participants, that are self-directing, to operate under the administrative rules. Current rules are written only for Home and Community-Based Services waiver services for individuals with developmental disabilities (HCBS DD).

The following is a summary of the proposed changes under this docket:

1. Align, clarify, and augment the rules that govern self-direction programs to include self-direction services under the Home and Community-Based Services waiver for the Aged and Disabled (HCBS A&D).
2. Replace the requirement for a contract with the fiscal employer agent with the requirement to use a provider agreement.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as it is necessary to protect the public health, safety, or welfare.

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

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The negotiated rulemaking was informal. No "Notice of Intent to Promulgate Rules" was published.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Susan Scheuerer at (208) 287-1156.

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

DATED this 2nd day of September, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 16-0313-0901

001. TITLE AND SCOPE.

01. Title. ~~These title of these rules will be cited as is~~ IDAPA 16.03.13, "Consumer-Directed Services." (3-30-07)(1-1-10)T

02. Scope. ~~Self-Directed Community Supports (SDCS) is a flexible program option for participants eligible for the Home and Community Based Services – Developmental Disabilities (HCBS-DD) waiver. The SDCS option allows the eligible participant to: choose the type and frequency of supports he wants, negotiate the rate of payment, and hire the person or agency he prefers to provide those supports. These rules cover benefit options for participants who are eligible for consumer-directed services in Idaho.~~ (3-30-07)(1-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History Check Requirements for Self-Directed Community Supports. (1-1-10)T

~~01a.~~ Compliance with Department Criminal History Check. The fiscal ~~employer~~ agent must verify that each ~~support broker and~~ community support worker, whose criminal history check has not been waived by the participant, has complied with IDAPA 16.05.06, "Criminal History and Background Checks." When a participant chooses to waive the criminal history check requirement for a community support worker, the waiver must be completed in accordance with Section 150 of these rules. (3-30-07)(1-1-10)T

~~02b.~~ Availability to Work or Provide Service. Participants, at their discretion, may review the completed application and allow the community support worker to provide services on a provisional basis if no disqualifying offenses listed in IDAPA 16.05.06, "Criminal History and Background Checks," are disclosed. (3-30-07)

~~03c.~~ Additional Criminal Convictions. Once criminal history clearances have been received, any additional criminal convictions must be immediately reported by the community support worker to the participant and by the participant to the Department. (3-30-07)(1-1-10)T

~~04d.~~ Notice of Pending Investigations or Charges. Once criminal history clearances have been received, any charges or investigations for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints, must be immediately reported by the community support worker to the participant and by the participant to the Department. (3-30-07)(1-1-10)T

~~05e.~~ Providers Subject to Criminal History Check Requirements. A Each community support worker;

who has not had the requirement waived by the participant, and ~~each~~ support broker as defined in Section 010 of these rules, must participate in a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." ~~(3-30-07)~~(1-1-10)T

02. Criminal History Check Requirements for Financial Management Co-Employer. Each financial management co-employer must participate in a criminal history check as required by Section 39-5604, Idaho Code. The criminal history check must be conducted in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-10)T

010. DEFINITIONS.

01. Circle of Supports. People who encourage and care about the participant and provide unpaid supports. (3-30-07)

02. Community Support Worker. An individual, agency, or vendor selected and paid by the participant to provide community support worker services. (3-30-07)

03. Community Support Worker Services. Community support worker services are those identified supports listed in Section 110 of these rules. (3-30-07)

04. Employer of Record. The entity on record with the IRS and Idaho State Tax Commission that is responsible for paying employees and for withholding required taxes for its employees. (1-1-10)T

05. Employment Agreement. An employment agreement is a signed agreement between an employer and that employer's employee that defines the goods and services that are to be provided by the employee for the employer. (1-1-10)T

046. Financial Management Services (FMS). Services provided by a fiscal ~~employer~~ agent that include: ~~(3-30-07)~~(1-1-10)T

a. Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (3-30-07)

b. Performing payroll services; and (3-30-07)

c. Handling billing and employment related documentation responsibilities. (3-30-07)

07. Fiscal Agent. An agency that provides financial management services to participants. (1-1-10)T

058. Fiscal Employer Agent (FEA). ~~An agency~~ fiscal agent that provides ~~financial management~~ services to participants who have chosen the SDCS option. The fiscal employer agent (FEA) is appointed by the participant and their duties are defined under Section 3504 of the Internal Revenue Code (26 USC 3504). ~~(3-30-07)~~(1-1-10)T

09. Financial Management Co-Employer. A fiscal agent that provides financial management services to participants and acts as a co-employer with the participant, that allows the participant receiving personal assistance services from a community services worker, or his designee or legal representative, to choose the level of control he will assume in recruiting, selecting, managing, training, and dismissing his personal assistant, regardless of who the employer of record is, and control over the manner in which services are delivered. (1-1-10)T

10. Financial Management Co-Employer Services (FMCS). Financial Management Co-Employer Services is the name of the program option for participants eligible for the Home and Community-Based Services waiver for the Aged and Disabled (HCBS A&D), who choose to utilize the services of a financial management co-employer. (1-1-10)T

0611. Goods. Tangible products or merchandise that are authorized on the support and spending plan. (3-30-07)

0712. Guiding Principles for the SDCS Option. Self-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles: (3-30-07)

- a. Freedom for the participant to make choices and plan his own life; (3-30-07)
- b. Authority for the participant to control resources allocated to him to acquire needed supports; (3-30-07)
- c. Opportunity for the participant to choose his own supports; (3-30-07)
- d. Responsibility for the participant to make choices and take responsibility for the result of those choices; and (3-30-07)
- e. Shared responsibility between the participant and his community to help the participant become an involved and contributing member of that community. (3-30-07)

13. HCBS A&D Waiver. Home and Community-Based Services waiver for the Aged and Disabled. (1-1-10)T

14. HCBS DD Waiver. Home and Community-Based Services waiver for individuals with developmental disabilities. (1-1-10)T

15. Personal Assistance Services. In accordance with Section 39-5602, Idaho Code, personal assistance services include both attendant care services and personal care services and means services that involve personal and medically-oriented tasks dealing with the functional needs of the participant and accommodating the participant's needs for long-term maintenance, supportive care or IADLs. These services may include personal assistance and medical tasks that can be done by unlicensed persons or delegated to unlicensed persons by a health care professional or participant. Services must be based on the participant's abilities and limitations, regardless of age, medical diagnosis or other category of disability. (1-1-10)T

16. Readiness Review. A review conducted by the Department used to ensure that each fiscal employer agent and financial management co-employer is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules. (1-1-10)T

17. Self-Directed Community Supports (SDCS). Self-Directed Community Supports (SDCS) is a flexible program option for participants eligible for the Home and Community-Based Services Developmental Disabilities (HCBS DD) or Aged and Disabled (HCBS A&D) waivers. Under the SDCS option, the participant acts as the employer of record. This option allows the eligible participant to choose the type and frequency of supports he wants, negotiate the rate of payment, and hire the person or agency he prefers to provide those supports. (1-1-10)T

18. Support and Spending Plan. A support and spending plan is a document that functions as a participant's plan of care when the participant is eligible for and has chosen a self-directed service option. This document identifies the goods or services, or both, selected by a participant and the cost of each of the identified goods and services. The participant uses this document to manage his individualized budget. (1-1-10)T

0819. Supports. Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support. (3-30-07)

0920. Support Broker. An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker services. (3-30-07)

1021. Support Broker Services. Services provided by a support broker to assist the participant with planning, negotiating, and budgeting. (3-30-07)

22. Waiver Services. A collective term that refers to services provided under either the HCBS DD or A&D waivers. (1-1-10)T

011. -- 049. (RESERVED).

050. ELIGIBILITY DETERMINATION FOR CONSUMER-DIRECTED SERVICES.

01. Eligibility for SDCS Option. (1-1-10)T

a. Determination of Medicaid and Home and Community-Based Services - DD or A&D Waiver Requirements. In order to choose the SDCS option, the participant must first be determined Medicaid-eligible and must be determined to meet existing (HCBS-DD) or (HCBS A&D) waiver program requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (1-1-10)T

b. Participant Agreement Form. The participant and his legal representative, if one exists, must agree in writing to the following, using a Department-approved form: (1-1-10)T

i. Accept the guiding principles for the SDCS option, as defined under Section 010 of these rules; (1-1-10)T

ii. Agree to meet the participant responsibilities outlined in Section 120 of these rules; (1-1-10)T

iii. Take responsibility for and accept potential risks, and any resulting consequences, for their support choices. (1-1-10)T

c. Power of Attorney. If the participant has granted power of attorney to another individual, the participant must provide a copy of Idaho State Tax Commission Power of Attorney (Form TC00110). The individual with power of attorney for the participant must agree in writing to honor the choices of the participant. (1-1-10)T

02. Eligibility for FMCS Option. (1-1-10)T

a. Determination of Medicaid Home and Community-Based Services A&D Waiver Requirements. In order to choose the FMCS option, the participant must first be determined Medicaid-eligible and must be determined to meet existing HCBS A&D waiver program requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (1-1-10)T

b. Power of Attorney. If the participant has granted power of attorney to another individual, the participant must provide a copy of Idaho State Tax Commission Power of Attorney (Form TC00110). The individual with power of attorney for the participant must agree in writing to honor the choices of the participant. (1-1-10)T

050. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~101. ELIGIBILITY.~~

~~**01.** Determination of Medicaid and Home and Community Based Services — DD Requirements. In order to choose the SDCS option, the participant must first be determined Medicaid-eligible and must be determined to meet existing (HCBS-DD) waiver program requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ (3-30-07)

~~**02.** Participant Agreement Form. The participant, and his legal representative, if one exists, must agree in writing using a Department approved form to the following:~~ (3-30-07)

- ~~a-~~ *Accept the guiding principles for the SDCS option, as defined in Section 010 of these rules;* (3-30-07)
- ~~b-~~ *Agree to meet the participant responsibilities outlined in Section 120 of these rules;* (3-30-07)
- ~~c-~~ *Take responsibility for and accept potential risks, and any resulting consequences, for their support choices.* (3-30-07)
- ~~03-~~ **Legal Representative Agreement.** *The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the SDCS option.* (3-30-07)

1021. -- 109. (RESERVED).

110. ~~PAID~~ SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - COVERAGE AND LIMITATIONS.

The participant must purchase financial management services and support broker services to participate in the SDCS option. The participant must purchase goods and hire community support workers through the fiscal employer agent. (3-30-07)(1-1-10)T

01. Fiscal Financial Management Services. The Department will ~~contract with a~~ enter into a provider agreement with a qualified fiscal employer agent, as defined in Section 010 of these rules, to provide financial management services to a participant who chooses ~~the self-directed~~ the SDCS option. (3-30-07)(1-1-10)T

02. Support Broker. Support broker services are provided by a qualified support broker. (3-30-07)

03. HCBS DD Waiver Community Support Worker. The community support worker provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification. Identified supports include activities that address the HCBS DD waiver participant's preference for: (3-30-07)(1-1-10)T

- a.** Job support to help the participant secure and maintain employment or attain job advancement; (3-30-07)
- b.** Personal support to help the participant maintain health, safety, and basic quality of life; (3-30-07)
- c.** Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-30-07)
- d.** Emotional support to help the participant learn and practice behaviors consistent with his goals and wishes while minimizing interfering behaviors; (3-30-07)
- e.** Learning support to help the participant learn new skills or improve existing skills that relate to his identified goals; (3-30-07)
- f.** Transportation support to help the participant accomplish his identified goals; (3-30-07)
- g.** Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes his increased independence; and (3-30-07)
- h.** Skilled nursing support identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed professional (RN) nurse or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. (3-30-07)

04. HCBS A&D Waiver Community Support Worker. The community support worker provides identified supports to the participant. Identified community support worker activities for HCBS A&D participants are: (1-1-10)T

a. Provision of identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification; and (1-1-10)T

b. Attendant care and homemaker services as described under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 326 and 329. (1-1-10)T

111. -- 119. (RESERVED).

120. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - PARTICIPANT RESPONSIBILITIES.

With the assistance of the support broker and the legal representative, if one exists, the participant is responsible for the following: (~~3-30-07~~)(1-1-10)T

01. Guiding Principles. Accepting and honoring the guiding principles for the SDCS option found in Section 010 of these rules. (3-30-07)

02. Person-Centered Planning. Participating in the person-centered planning process in order to identify and document support and service needs, wants, and preferences. (3-30-07)

03. Rates for HCBS DD Waiver Services. Negotiating payment rates for all paid community support worker services he wants to purchase, ensuring rates negotiated for supports and services do not exceed the prevailing market rate, and including the details in the employment agreements. (~~3-30-07~~)(1-1-10)T

04. Rates for HCBS A&D Waiver Services. Negotiating payment rates for Department-approved community support worker services he wants to purchase, ensuring rates negotiated for services do not exceed the prevailing market rate, and including the details in the employment agreements. (1-1-10)T

045. Agreements. Completing and implementing agreements for the fiscal employer agent, the support broker and community support workers and submitting the agreements to the fiscal employer agent. These agreements must be submitted on Department-approved forms. (3-30-07)

056. Agreement Detail. Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that he possesses the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; and no employer-related claims will be filed against the Department. (3-30-07)

067. Plan. Developing a comprehensive support and spending plan based on the information gathered during the person-centered planning. (3-30-07)

078. Time Sheets and Invoices. Reviewing and verifying that supports being billed were provided and indicating that he approves of the bill by signing the time sheet or invoice. (~~3-30-07~~)(1-1-10)T

089. Quality Assurance and Improvement. Providing feedback to the best of his ability regarding his satisfaction with the supports he receives and the performance of his community support workers. (~~3-30-07~~)(1-1-10)T

121. -- 129. (RESERVED).

130. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.

01. Requirements. The fiscal employer agent must meet the requirements outlined in its *contract*

provider agreement with the Department, and Section 3504 of the Internal Revenue Code (26 USC 3504).

~~(3-30-07)~~(1-1-10)T

- 02. Limitations.** The fiscal employer agent must not: (3-30-07)
- a.** Provide any other direct services to the participant, to ensure there is no conflict of interest; or (3-30-07)
- b.** Employ the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over the participant's choice. (3-30-07)

131. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.

The fiscal employer agent performs financial management services for each participant. Prior to providing financial management services the participant and the fiscal employer agent must enter into a written agreement. Financial management services include: ~~(3-30-07)~~(1-1-10)T

- 01. Payroll and Accounting.** Providing payroll and accounting supports to participants that have chosen the Self-Directed Community Supports option; (3-30-07)
- 02. Financial Reporting.** Performing financial reporting for employees of each participant. (3-30-07)
- 03. Information Packet.** Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring his own staff. (3-30-07)
- 04. Time Sheets and Invoices.** Processing and paying time sheets for community support workers and support brokers, as authorized by the participant, according to the participant's Department-authorized support and spending plan; (3-30-07)
- 05. Taxes.** Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-30-07)
- 06. Payments for Goods and Services.** Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-30-07)
- 07. Spending Information.** Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-30-07)
- 08. Quality Assurance and Improvement.** Participating in Department quality assurance activities. (3-30-07)

132. -- 134. (RESERVED).

135. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.

01. Initial Application to Become a Support Broker for HCBS DD or A&D Waiver Participants.
An individual interested in becoming a support broker for HCBS DD or A&D waiver participants must complete the Department-approved application to document that he: ~~(3-30-07)~~(1-1-10)T

- a.** Is eighteen (18) years of age or older; (3-30-07)
- b.** Has skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (3-30-07)
- c.** ~~Has~~ When the HCBS DD or A&D waiver participant has been diagnosed with a developmental delay, the support broker must have at least two (2) years verifiable experience ~~with the target population~~ working

with individuals with developmental disabilities and knowledge of services and resources in the developmental disabilities field. ~~(3-30-07)(1-1-10)T~~

02. Application Exam. Applicants that meet the minimum requirements outlined in this section will receive training materials and resources to prepare for the application exam. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements outlined in these rules, will be eligible to enter into an provider employment agreement with the Department participant. ~~(3-30-07)(1-1-10)T~~

03. Required Ongoing Training. All support brokers must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of support broker services. Up to six (6) hours of the required twelve (12) hours may be obtained through independent self-study. The remaining hours must consist of classroom training. (3-30-07)

04. Termination. The Department participant may terminate the provider employment agreement when the support broker: ~~(3-30-07)(1-1-10)T~~

- a. Is no longer able to pass a criminal history background check as outlined in Section 009 of these rules. (3-30-07)
- b. Puts the health or safety of the participant at risk by failing to perform job duties as outlined in the employment agreement. (3-30-07)
- c. Does not receive and document the required ongoing training. (3-30-07)

05. Limitations. The support broker must not: (3-30-07)

- a. Provide or be employed by an agency that provides paid community supports worker services under Section 150 of these rules to the same participant; and ~~(3-30-07)(1-1-10)T~~
- b. Be the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over the participant's choices. Additionally, the support broker must not be in a position to both influence a participant's decision making and receive undue financial benefit from the participant's decisions. (3-30-07)

136. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - SUPPORT BROKER DUTIES AND RESPONSIBILITIES.

01. Support Broker Initial Documentation. Prior to beginning employment for the participant, the support broker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. This packet must include documentation of: (3-30-07)

- a. Support broker application approval by the Department; (3-30-07)
- ~~b. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; and (3-30-07)~~

eb. A completed employment agreement with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services. The negotiated rate must not exceed the maximum hourly rate for support broker services established by the Department. (3-30-07)

02. Required Support Broker Duties. Support broker services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the support broker must: (3-30-07)

- a. Participate in the person-centered planning process; (3-30-07)

b. Develop a written support and spending plan with the participant that includes the supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. This plan must be authorized by the Department; (3-30-07)

c. Assist the participant to monitor and review his budget; (3-30-07)

d. Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-30-07)

e. Participate with Department quality assurance measures, as requested; (3-30-07)

f. Assist the participant to complete the annual re-determination process as needed, including updating the support and spending plan and submitting it to the Department for authorization; (3-30-07)

g. Assist the participant, as needed, to meet the participant responsibilities outlined in Section 120 of these rules and assist the participant, as needed, to protect his own health and safety; and (3-30-07)

h. Complete the Department-approved criminal history check waiver form when a participant chooses to waive the criminal history check requirement for a community support worker. Completion of this form requires that the support broker provide education and counseling to the participant and his circle of support regarding the risks of waiving a criminal history check and assist with detailing the rationale for waiving the criminal history check and how health and safety will be protected. (3-30-07)

03. Additional Support Broker Duties. In addition to the required support broker duties, each support broker must be able to provide the following services when requested by the participant: (3-30-07)

a. Assist the participant to develop and maintain a circle of support; (3-30-07)

b. Help the participant learn and implement the skills needed to recruit, hire, and monitor community support workers; ~~(3-30-07)~~(1-1-10)T

c. Assist the participant to negotiate rates for paid community support workers; (3-30-07)

d. Maintain documentation of supports provided by each community support worker and participant's satisfaction with these supports; (3-30-07)

e. Assist the participant to monitor community support worker services; ~~(3-30-07)~~(1-1-10)T

f. Assist the participant to resolve employment-related problems; and (3-30-07)

g. Assist the participant to identify and develop community resources to meet specific needs. (3-30-07)

04. Termination of Support Broker Services. If a support broker decides to end services with a participant, he must give the participant at least thirty (30) days' written notice prior to terminating services. The support broker must assist the participant to identify a new support broker and provide the participant and new support broker with a written service transition plan by the date of termination. The transition plan must include an updated support and spending plan that reflects current supports being received, details about the existing community support workers, and unmet needs. (3-30-07)

137. -- 139. (RESERVED).

140. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - COMMUNITY SUPPORT WORKER LIMITATIONS.

A paid community support worker must not be the spouse of the participant and must not have direct control over the

participant's choices, must avoid any conflict of interest, and must not receive undue financial benefit from the participant's choices. A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following: ~~(3-30-07)~~(1-1-10)T

01. Participant Responsibilities. The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules. (3-30-07)

02. Legal Guardian Obligations. The legal guardian must not be paid to fulfill any obligations he is legally responsible to fulfill as outlined in the guardianship or conservator order from the court. (3-30-07)

141. -- 149. (RESERVED).

150. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - PAID COMMUNITY SUPPORT WORKER DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the community support worker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. When the community support worker will be providing services, this packet must include documentation of: (3-30-07)

a. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," or documentation that this requirement has been waived by the participant. This documentation must be provided on a Department-approved form and must include the rationale for waiving the criminal history check and describe how health and safety will be assured in lieu of a completed criminal history check. Individuals listed on a state or federal provider exclusion list must not provide paid supports; (3-30-07)

b. A completed employment agreement with the participant that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the support to be provided. If the community support worker is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (3-30-07)

c. Current state licensure or certification if identified support requires certification or licensure; and (3-30-07)

d. A statement of qualifications to provide supports identified in the employment agreement. (3-30-07)

02. Employment Agreement. The community support worker must deliver supports as defined in the employment agreement. (3-30-07)

03. Documentation of Supports. The community support worker must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the participant's fiscal employer agent or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's fiscal employer agent. (3-30-07)

04. Time ~~s~~heets and Invoices. The community support worker must obtain the signature of the participant or his legal representative on each completed time sheet or invoice prior to submitting the document to the fiscal employer agent for payment. Time sheets or invoices that are not signed by the community support worker and the participant or his legal representative will not be paid. ~~(3-30-07)~~(1-1-10)T

151. -- 159. (RESERVED).

160. SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) - SUPPORT AND SPENDING PLAN DEVELOPMENT.

01. Support and Spending Plan Requirements. The participant, with the help of his support broker, must develop a comprehensive support and spending plan based on the information gathered during the person-centered planning. The support and spending plan is not valid until authorized by the Department, ~~and must include the following:~~ ~~(3-30-07)~~(1-1-10)T

02. Support and Spending Plan Requirements for HCBS DD Waiver Participants. The support and spending plan requirements for HCBS DD waiver participants must include the following: (1-1-10)T

a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in his community. (3-30-07)

b. Paid or non-paid self-directed community supports* worker services that focus on the participant's wants, needs, and goals in the following areas: ~~(3-30-07)~~(1-1-10)T

i. Personal health and safety including quality of life preferences; (3-30-07)

ii. Securing and maintaining employment; (3-30-07)

iii. Establishing and maintaining relationships with family, friends and others to build the participant's circle of supports; (3-30-07)

iv. Learning and practicing ways to recognize and minimize interfering behaviors; and (3-30-07)

v. Learning new skills or improving existing ones to accomplish set goals. (3-30-07)

c. Support needs such as: (3-30-07)

i. Medical care and medicine; (3-30-07)

ii. Skilled care including therapies or nursing needs; (3-30-07)

iii. Community involvement; (3-30-07)

iv. Preferred living arrangements including possible roommate(s); and (3-30-07)

v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-30-07)

d. Risks or safety concerns in relation to the identified support needs on the participant's plan. The plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (3-30-07)

e. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; and (3-30-07)

f. The budgeted amounts planned in relation to the participant's needed supports. Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily. The fiscal employer agent will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan prior to processing time sheets or invoices for payment. (3-30-07)

03. Support and Spending Plan Requirements for HCBS A&D Waiver Participants. The support and spending plan requirements for HCBS A&D waiver participants must include the following: (1-1-10)T

a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in his community; (1-1-10)T

b. Paid or non-paid self-directed community support worker services that focus on the participant's wants, needs, and goals; (1-1-10)T

c. Responds to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any; (1-1-10)T

d. Risks or safety concerns in relation to the identified support needs on the participant's plan. The plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (1-1-10)T

e. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; and (1-1-10)T

f. The budgeted amounts planned in relation to the participant's needed supports. Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily. The fiscal employer agent will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan prior to processing time sheets or invoices for payment. (1-1-10)T

024. Support and Spending Plan Limitations. Support and spending plan limitations include: (3-30-07)

a. ~~Traditional~~ Only consumer-directed Medicaid waiver services and ~~traditional~~ consumer-directed rehabilitative or habilitative services ~~must not~~ can be purchased under the SDCS option for HCBS DD waiver participants. ~~Because~~ Since an HCBS DD waiver participant ~~cannot~~ only receive ~~these traditional services and self~~ consumer-directed services ~~at the same time~~, the participant, the support broker, and the Department must all work together to assure that there is no interruption of required services when ~~moving between traditional~~ transitioning participants from waiver services ~~and~~ covered under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," to the SDCS option; (~~3-30-07~~)(1-1-10)T

b. Paid community support~~s~~ worker services must not be provided in a group setting with recipients of ~~traditional~~ nonconsumer-directed Medicaid waiver, rehabilitative or habilitative services. This limitation does not preclude a participant who has selected the self-directed option from choosing to live with recipients of ~~traditional~~ nonconsumer-directed Medicaid services; (~~3-30-07~~)(1-1-10)T

c. All paid community support~~s~~ worker services must fit into one (1) or more types of community support~~s~~ worker services categories described in Section 110 of these rules. Community support~~s~~ worker services that are not medically necessary or that do not minimize the participant's need for institutionalization must only be listed as non-paid supports. Additionally, the support and spending plan must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; (~~3-30-07~~)(1-1-10)T

d. Support and spending plans that exceed the approved budget amount will not be authorized; and (3-30-07)

e. Time sheets or invoices that are submitted to the fiscal employer agent for payment that exceed the authorized support and spending plan amount will not be paid by the fiscal employer agent. (3-30-07)

161. -- 1694. (RESERVED).

165. FINANCIAL MANAGEMENT CO-EMPLOYER SERVICES (FMCS) - COVERAGE REQUIREMENTS AND LIMITATIONS.

The participant must purchase financial management co-employer services to participate in the FMCS option. The participant must hire community support workers through the financial management co-employer. (1-1-10)T

01. Financial Management Co-Employer Services. The Department will enter into a provider agreement with a qualified financial management co-employer, as defined in Section 010 of these rules, to provide financial management co-employer services to a participant who chooses the FMCS option. (1-1-10)T

02. HCBS A&D Waiver Community Support Worker. (1-1-10)T

a. The community support worker provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification. (1-1-10)T

b. The available activities for community support workers for A&D waiver participants are attendant care and homemaker services as described under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 326 and 329. (1-1-10)T

03. Responsible Parties for Fiscal Management Co-Employer Services. To utilize the services of a fiscal management co-employer, the participant, participant's family, or the individual with power of attorney for the participant, must be able and willing to assume responsibility for the direction of the participant's care and for personnel activities such as provider selection and supervision. (1-1-10)T

166. FINANCIAL MANAGEMENT CO-EMPLOYER SERVICES (FMCS) - SUPPORT AND SPENDING PLAN REQUIREMENTS.

The support and spending plan requirements for HCBS A&D waiver participants must include the following: (1-1-10)T

01. The Participant's Preferences and Interests. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in his community. (1-1-10)T

02. Self-Directed Community Support Worker Services. Paid or non-paid self-directed community support worker services that focus on the participant's wants, needs, and goals. (1-1-10)T

03. Responses to Emergencies. Responses to emergencies, including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (1-1-10)T

04. Risks or Safety Concerns. Risks or safety concerns in relation to the identified support needs on the participant's plan. The plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises. (1-1-10)T

05. Sources of Payment for the Listed Supports and Services. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services. (1-1-10)T

06. Participant's Needed Supports. The budgeted amounts planned in relation to the participant's needed supports. The support and spending plan submitted to the financial management co-employer must identify the amount of attendant care and homemaker services being purchased, the frequency and duration of the services to be provided. The financial management co-employer will compare and match the support and spending plan to the time sheets or invoices prior to payment. (1-1-10)T

167. FINANCIAL MANAGEMENT CO-EMPLOYER SERVICES (FMCS) - PROCEDURAL REQUIREMENTS.

The participant as employer and the financial management co-employer as employer are both responsible for oversight to ensure that the services provided under the HCBS A&D waiver are provided in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Services," Sections 320 through 330. (1-1-10)T

168. FINANCIAL MANAGEMENT CO-EMPLOYER SERVICES (FMCS) - PROVIDER QUALIFICATIONS AND DUTIES.

01. Employment Status. Unless otherwise specified by the Department, a financial management co-employer agency must be the employer of record of each community support worker. (1-1-10)T

02. Exclusion of Spouses. A financial management co-employer agent can not be a spouse of any participant to whom the provider is supplying services. (1-1-10)T

03. Provider Qualifications. Each financial management co-employer must have a signed provider agreement with the Department. Each financial management co-employer must meet the qualifications outlined in its provider agreement with the Department and the qualifications under this rule. (1-1-10)T

04. Duties of the Financial Management Co-Employer. Each financial management co-employer is responsible for the following duties: (1-1-10)T

a. To offer supportive services to enable participants or their families to hire, fire, and train community support workers; (1-1-10)T

b. To bill the Medicaid program for services approved and authorized by the Department; (1-1-10)T

c. To pay community support workers; (1-1-10)T

d. To perform all necessary withholding as required by state and federal labor and tax laws, rules and regulations. This must assure compliance with payroll requirements including payment of all FICA taxes, and state and federal tax withholding for community support workers; (1-1-10)T

e. To assure that community support workers providing services meet the standards and qualifications under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 329; (1-1-10)T

f. To maintain liability insurance coverage; (1-1-10)T

g. To conduct, at least annually, participant satisfaction or quality control reviews that are available to the Department and the general public; (1-1-10)T

h. To make referrals for service coordination when a need for such service is identified and the participant is eligible; and (1-1-10)T

05. Criminal History Check. All financial management co-employer providers must participate in a criminal history check as required by Section 39-5604, Idaho Code. The criminal history check must be conducted in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-10)T

169. FINANCIAL MANAGEMENT CO-EMPLOYER SERVICES (FMCS) - PROVIDER REIMBURSEMENT.

The following criteria are used in determining reimbursement for providers of HCBS A&D waiver services under the FMCS option. (1-1-10)T

01. Fee for Services. HCBS A&D waiver service providers will be paid on a fee-for-service basis as established by the Department depending on the type of service provided. (1-1-10)T

02. Calculation of Fees. The fees calculated for HCBS A&D waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided waiver or state plan transportation. (1-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

180. CIRCLE OF SUPPORTS.

The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports perform on behalf of the participant are not paid.

(3-30-07)

01. Focus of the Circle of Support. The participant's circle of support should be built and operate with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action, along with and on behalf of the participant, to help the participant accomplish his personal goals.

(3-30-07)

02. Members of the Circle of Support. A circle of support may include family members, friends, neighbors, co-workers, and other community members. When the participant's legal guardian is selected as a community support worker, the circle of support must include at least one (1) non-family member that is not the support broker. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian.

(3-30-07)

03. Selection and Duties of the Circle of Support. Members of the circle of support are selected by the participant and commit to work within the group to:

(3-30-07)

a. Help promote and improve the life of the participant in accordance with the participant's choices and preferences; and

(3-30-07)

b. Meet on a regular basis to assist the participant to accomplish his expressed goals.

(3-30-07)

04. Natural Supports. A natural support may perform any duty of the support broker as long as the support broker still completes the required responsibilities listed in Subsection 136.02 of these rules. Additionally, any community support worker task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's support plan, but time worked does not need to be recorded or reported to the fiscal *employer* agent.

~~(3-30-07)~~(1-1-10)T

181. -- 189. (RESERVED).

190. INDIVIDUALIZED BUDGET.

The Department sets an individualized budget for each participant according to an individualized measurement of the participant's functional abilities, behavioral limitations, medical needs, and other individual factors related to the participant's *disability assessed needs*. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. The participant must work within the identified budget and acknowledge that he understands the budget figure is a fixed amount.

~~(3-30-07)~~(1-1-10)T

~~**01. Implementation of Budget Setting Methodology.** During the implementation phase of using the new individualized budget setting methodology, the budget calculation will include reviewing the participant's previous year's budget. When the calculated budget is less than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the calculated budget amount. When the calculated budget is greater than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the previous year's budget amount. The Department will collect information on discrepancies between the calculated budget and the previous year's budget as part of the ongoing assessment and improvement process of the budget setting methodology.~~

~~(3-30-07)~~

021. Budget Amount Notification and Request for Reconsideration. The Department notifies each participant of his set budget amount. The notification will include how the participant may request reconsideration of the set budget amount.

(3-30-07)

032. Annual Re-Evaluation of Individualized Budgets. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's individualized needs and it is demonstrated that these additional needs cannot be supported by the current budget.

(3-30-07)

191. -- 199. (RESERVED).

200. QUALITY ASSURANCE.

The Department will implement quality assurance processes to assure: access to self-directed services, participant direction of plans and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. (3-30-07)

01. Participant Experience Survey (PES). Each participant will have the opportunity to provide feedback to the Department about his satisfaction with self-directed services utilizing the PES. (3-30-07)

02. HCBS DD Waiver Participant Experience Outcomes. Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: ~~(3-30-07)~~(1-1-10)T

- a. Access to care; (3-30-07)
- b. Choice and control; (3-30-07)
- c. Respect and dignity; (3-30-07)
- d. Community integration; and (3-30-07)
- e. Inclusion. (3-30-07)

03. Fiscal ~~Employer~~ Agent Quality Assurance Activities. The fiscal ~~employer~~ agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. ~~(3-30-07)~~(1-1-10)T

04. Community Support Workers and Support Brokers Quality Assurance Activities. Community support workers and support brokers must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (3-30-07)

05. Participant Choice of Paid Community Support Worker. Paid community support workers must be selected by the participant, or his chosen representative, and must meet the qualifications identified in Section 150 of this rule. (3-30-07)

06. Complaint Reporting and Tracking Process. The Department will maintain a complaint reporting and tracking process to ensure participants, ~~workers~~ employees, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. ~~(3-30-07)~~(1-1-10)T

07. Quality Oversight Committee. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-30-07)

08. Quarterly Quality Assurance Reviews. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved support and spending plan. (3-30-07)

201. -- 209. (RESERVED).

210. DISCONTINUATION OF ~~THE SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) OPTION~~ CONSUMER-DIRECTED SERVICES.

The following requirements must be met or the Department may require the participant to discontinue ~~the SDCS option~~ consumer-directed services: ~~(3-30-07)~~(1-1-10)T

- 01. Required Supports.** (1-1-10)T
- a.** The SDCS participant is willing to work with a support broker and a fiscal employer agent. (~~3-30-07~~)(1-1-10)T
- b.** The FMCS participant is willing to work with a financial management co-employer. (1-1-10)T
- 02. Support and Spending Plan.** The participant's support and spending plan is being followed. (3-30-07)
- 03. Risk and Safety Back-Up Plans.** Back-up plans to manage risks and safety are being followed. (3-30-07)
- 04. Health and Safety Choices.** The participant's choices do not directly endanger his health, welfare and safety or endanger or harm others. (3-30-07)
- 211. -- 299. (RESERVED).**

FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES
(Sections 300-399)

300. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - DEFINITIONS.
For purposes of Sections 300 through 399, the following definitions apply: (1-1-10)T

- 01. Employee.** A community support worker employed by a participant receiving services under the SDCS option. (1-1-10)T
- 02. Employer.** A participant receiving services under the SDCS option. (1-1-10)T
- 03. Provider.** The term "provider" specifically refers to the fiscal employer agent providing financial management services to individuals participating in self-direction. (1-1-10)T
- 04. SFTP.** Secure file transfer protocol. A secure means of transferring data that allows certain Department staff to access information regarding self-direction participants. (1-1-10)T
- 05. Vendor.** Provides goods and services rendered by agencies and independent contractors in accord with a participant's support and spending plan. (1-1-10)T
- 06. Waiver 372 Report.** A report generated every payroll period by the provider; it provides a list and count of unduplicated recipients and payroll expenditures by service code, based on the date of service time frame specified by the user. (1-1-10)T

301. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - SELF-DIRECTED COMMUNITY SUPPORTS.

- 01. Federal Tax ID Requirement.** The fiscal employer agent will obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants under Section 3504 of the Internal Revenue Code (26 USC 3504). In addition, the provider must: (1-1-10)T
- a.** Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for FEIN in the participant's file. (1-1-10)T
- b.** Retire participant's FEIN when the participant is no longer an employer under the consumer-

directed program. (1-1-10)T

02. Requirement to Report Irregular Activities or Practices. The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations discovered during the performance of activities; (1-1-10)T

03. Restriction from Providing Fiscal Employer Agent and Fiscal Management Services to the Same Participant. The provider must not act as a fiscal employer agent and provide fiscal management services to a participant for whom it also provides any other services funded by the Department. (1-1-10)T

04. Policies and Procedures. The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. (1-1-10)T

05. Key Contact Person. The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and ensure these individuals respond to the Department within one (1) business day. (1-1-10)T

06. Face-to-Face Transitional Participant Enrollment. The provider must conduct face-to-face transitional participant enrollment sessions in group settings and with individual participants in their homes or other designated locations. The provider will work with the regional Department staff to coordinate and conduct enrollment sessions. (1-1-10)T

07. SFTP Site. The provider must provide a SFTP site for the Department to access. The site will have the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. (1-1-10)T

08. Required IRS Forms. The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: (1-1-10)T

a. IRS Form 2678; (1-1-10)T

b. IRS Approval Letter; (1-1-10)T

c. IRS Form 2678 revocation process; (1-1-10)T

d. Initial IRS Form 2848; and (1-1-10)T

e. Renewal IRS Form 2848. (1-1-10)T

09. Requirement to Obtain Power of Attorney. The provider must obtain an Idaho State Tax Commission Power of Attorney (Form TC00110) from each participant it represents and must maintain the relevant documentation in each participant's file. (1-1-10)T

10. Requirement to Revoke Power of Attorney. The provider must revoke the Idaho State Tax Commission Power of Attorney (Form TC00110) when the provider no longer represents the participant and must maintain the relevant documentation in the participant's file. (1-1-10)T

302. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - CUSTOMER SERVICE.

01. Customer Service System. The provider must provide a customer service system to respond to all inquiries from participants, employees, agencies, and vendors. The provider must: (1-1-10)T

a. Provide staff with customer service training with an emphasis on self-direction. (1-1-10)T

b. Ensure staff are trained and have the skills to assist participants with enrollment and to help them understand their account statements. (1-1-10)T

c. Ensure that fiscal employer agent personnel are available during regular business hours, 8:00 AM to 5:00 PM Mountain Time, Monday through Friday, excluding weekends and state holidays. (1-1-10)T

d. Provide translation and interpreter services (i.e., American Sign Language and services for persons with limited English proficiency). (1-1-10)T

e. Provide prompt and consistent response to verbal and written communication. Specifically: (1-1-10)T

i. All voice mail messages must be responded to within one (1) business day; and (1-1-10)T

ii. All written and electronic correspondence must be responded to within five (5) business days. (1-1-10)T

f. Maintain a toll-free phone line where callers speak to a live person during business hours and are provided the option to leave voice mail at any time, all day, every day. (1-1-10)T

g. Maintain a toll-free fax line that is available all day, every day, exclusively for participants and their employees. (1-1-10)T

02. Complaint Resolution and Tracking System. The provider is responsible for receiving, responding to, and tracking all complaints from any source under this agreement. A complaint is defined as a verbal or written expression of dissatisfaction about fiscal employer agent services. The provider must: (1-1-10)T

a. Respond to all written and electronic correspondence within five (5) days. (1-1-10)T

b. Respond to verbal complaints within one (1) business day. (1-1-10)T

c. Maintain an electronic tracking system and log of complaints and resolutions. The electronic log of complaints and resolutions must be accessible for Department review through the SFTP site. (1-1-10)T

d. Log and track complaints received from the Department pertaining to fiscal employer agent services. (1-1-10)T

e. Compile a summary report and analyze complaints received on a quarterly basis to determine the quality of services to participants and to identify any corrective action necessary. (1-1-10)T

f. Any day a complaint is received (Monday through Friday), the complaint must be posted to the SFTP site within twenty-four (24) hours. Saturday and Sunday complaints must be posted to the SFTP site by close of business the following Monday. Failure to comply will result in a \$50.00 penalty fee payable to Medicaid within ninety (90) days of incident. (1-1-10)T

303. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PERSONAL AND CONFIDENTIAL INFORMATION.

The provider must implement and enforce policies and procedures regarding documents that are mailed, faxed, or e-mailed to and from the provider to ensure documents are tracked and that confidential information is not compromised, is stored appropriately and not lost, and is traceable for historical research purposes. (1-1-10)T

304. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - ENROLLMENT PROCESS.

01. Submission of Participant Enrollment and Employee Packets for Department Approval. The provider must submit the following for participant enrollment and employee packets to the Department for approval. (1-1-10)T

- a.** The participant enrollment packet must include: (1-1-10)T
 - i. Fiscal employer agent authorization form; (1-1-10)T
 - ii. Employer Appointment of Agent - IRS Form; (1-1-10)T
 - iii. Tax Information Form; and (1-1-10)T
 - iv. Employer information. The employer information must include: (1-1-10)T
 - (1) Instructions for completing forms; (1-1-10)T
 - (2) Payroll schedule, including deadlines for submission of time cards; (1-1-10)T
 - (3) Sample employment agreements; (1-1-10)T
 - (4) Sample Request for Vendor Payment form; (1-1-10)T
 - (5) Sample independent provider agreement; and (1-1-10)T
 - (6) Other sample employment agreements as needed. (1-1-10)T
 - b.** The employee enrollment packet must contain: (1-1-10)T
 - i. Employee Information Form; (1-1-10)T
 - ii. I-9 Employment Eligibility Form; (1-1-10)T
 - iii. W-4 Employee Withholding Allowance Certificate; (1-1-10)T
 - iv. Pay selection agreement; (1-1-10)T
 - v. Direct deposit authorization (optional); (1-1-10)T
 - vi. Sample time sheets and instructions for completion; and (1-1-10)T
 - vii. IRS Form W-5. (1-1-10)T
- 02. Distribution of Participant Enrollment and Employee Packets to Participant after Department Approval.** The provider must distribute Department-approved participant enrollment packets and employment packets to the participant within two (2) business days after the participant requests the packets. (1-1-10)T
- a.** To enroll a participant, the provider must: (1-1-10)T
 - i. Enroll the participant within two (2) business days of receipt of completed paperwork; and (1-1-10)T
 - ii. Log and maintain an electronic record of all enrollment paperwork, which includes participant support and spending plan cost and authorization sheets. (1-1-10)T
 - b.** To enroll an employee, the provider must: (1-1-10)T
 - i. Enroll the employee within two (2) business days of receipt of completed paperwork; and (1-1-10)T
 - ii. Log and maintain an electronic record of all the employee's paperwork that includes the

employment agreements. (1-1-10)T

305. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PAYMENT PROCESS.

01. Process Payroll. The provider must process payroll, including time sheets and taxes, in accordance with the participant's support and spending plan. The payroll process must include: (1-1-10)T

a. Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. (1-1-10)T

b. Payment of invoices to vendors. (1-1-10)T

c. Management of participant budget funds as per authorized support and spending plan. (1-1-10)T

d. Garnishment of wages as per court orders. (1-1-10)T

e. Preparation of year-end federal and state tax forms. (1-1-10)T

f. Payment of worker's compensation insurance premiums. (1-1-10)T

02. Requirement to Track and Log Time Sheet Billing Errors. The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. (1-1-10)T

03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks. The provider must track and log occurrences of improperly cashed or improperly issued checks and must stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within two (2) weeks of when the error occurred. (1-1-10)T

04. Process Employee Payments. The provider must verify employees' documentation and process employees' payments via check, direct deposit, or pay cards as per preference of employees. The employee payment process includes: (1-1-10)T

a. Receipt of time cards from employees via mail, fax, or website by specified due dates. (1-1-10)T

b. Review time cards for accuracy and verify that timecards contain the following information: (1-1-10)T

i. Employer name and ID number. (1-1-10)T

ii. Employee name and ID number. (1-1-10)T

iii. Hours of work. (1-1-10)T

iv. Code for service. (1-1-10)T

c. Match codes to employment agreement to verify rate of pay. (1-1-10)T

d. Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay. (1-1-10)T

e. Calculate all taxes and other withholding. (1-1-10)T

f. Pay employees every two (2) weeks or semi-monthly. (1-1-10)T

g. Contact participant and representative if there are problems with timecards or other documents in

order to resolve issues prior to pay-date, if possible. (1-1-10)T

h. Maintain an electronic complaint log of payroll issues and resolutions. (1-1-10)T

i. The provider must verify there is money remaining in each participant's account and specific service category prior to issuing a check. (1-1-10)T

j. The provider must issue final paycheck within forty-eight (48) business hours to employees who have been terminated, upon receipt of written request, even if this is an out-of-cycle paycheck. (1-1-10)T

05. Process Vendor Payments. When participants submit requests for payment to vendors, the provider must: (1-1-10)T

a. Review, and maintain on file, the vendor payment request with attached voided vendor receipt submitted by the participant. (1-1-10)T

b. Ensure item or payment is authorized on the participant's support and spending plan. (1-1-10)T

c. Issue a check made out to the vendor and mail to participant for distribution. Vendor payments are made on the same schedule as payroll. (1-1-10)T

06. Process Independent Contractor or Outside Agency Payments. When the participant hires an independent contractor or outside agency, in accordance with the support and spending plan, the provider must: (1-1-10)T

a. Obtain a W-9 from the contractor or agency. (1-1-10)T

b. Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. (1-1-10)T

c. Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. (1-1-10)T

d. Ensure service or payment is authorized on the support and spending plan. (1-1-10)T

e. Issue payment directly to the independent contractor or agency. (1-1-10)T

07. End-of-Year Processing. For purposes of end-of-year processing, the provider must maintain relevant documentation and must: (1-1-10)T

a. Refund over-collected FICA to applicable employees, or to state government; (1-1-10)T

b. Prepare, file, and distribute IRS Form W-2 for each employee; (1-1-10)T

c. Prepare and file IRS Form W-3 for each participant represented; (1-1-10)T

d. Prepare and file State Form 957 for state income taxes for each employer; (1-1-10)T

e. Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and (1-1-10)T

f. Report and pay all state and federal unemployment insurance premiums. (1-1-10)T

306. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - ANNUAL PARTICIPANT SURVEY.

01. Requirement to Conduct Annual Participant Satisfaction Survey. Starting October 1 of each calendar year, each provider who has been providing services for at least six (6) months must conduct an annual

participant satisfaction survey. (1-1-10)T

a. Three (3) weeks prior to the survey launch, the provider must present the questions to the Department staff for approval. (1-1-10)T

b. Once the questions are approved by the Department, the provider can send out the survey. (1-1-10)T

c. The provider must survey its participants who receive services under consumer-directed services, such as participants with disabilities, family members of participants, and participants whose primary language is other than English. (1-1-10)T

d. The provider must provide options for participants to respond to the surveys, other than by mail, for those participants who may not be able to respond by that method. (1-1-10)T

02. **Requirement to Provide Results of Annual Participant Satisfaction Survey.** The provider must provide the results of the surveys to the Department in a comprehensive report, along with the completed surveys, by the 15th of December of each calendar year. (1-1-10)T

307. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - QUALITY ASSURANCE.

01. **Required Elements of Quality Insurance Process.** The provider must provide a quality assurance process that includes: (1-1-10)T

a. Implementation of a quality management plan; (1-1-10)T

b. Preparation of a quarterly, quality management analysis report; (1-1-10)T

c. Distribution, collection, and analysis of an annual participant satisfaction survey; and (1-1-10)T

d. A review of the monthly complaint summary and resolutions, monitoring of standards, and implementation of program improvements as needed. (1-1-10)T

02. **Requirement for Formal Quality Assurance Review.** Every two (2) years, the provider must participate in a formal quality assurance review conducted in collaboration with the Department. (1-1-10)T

308. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - DISASTER RECOVERY PLAN.

01. **Disaster Recovery Plan.** The provider must develop and maintain a Disaster Recovery Plan for electronic and hard copy files that includes restoring software and data files, and hardware backup if management information systems are disabled or servers are inoperative. The results of the Disaster Recovery Plan will ensure the continuation of payroll and invoice payment systems. The provider must submit the Disaster Recovery Plan for Department approval during the readiness review. (1-1-10)T

02. **Requirement to Report a Disaster.** The provider must report to the Department if management information systems are disabled or servers are inoperative within twenty-four (24) hours of the event. (1-1-10)T

309. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - TRANSITION PLAN.

01. **Transition Plan Objectives.** The provider must provide a transition plan to the Department within ninety (90) days after successful completion of the readiness review. The objectives of the transition plan are to minimize the disruption of services and provide an orderly and controlled transition of the provider's responsibilities to a successor at the conclusion of the agreement period or for any other reason the provider cannot complete responsibilities described in this chapter of rules. (1-1-10)T

02. **Transition Plan Requirements.** The transition plan must: (1-1-10)T

- a.** Be updated at least ninety (90) days prior to termination of the provider agreement. (1-1-10)T
- b.** Include tasks, and subtasks for transition, a schedule for transition, operational resource requirements, and training to be provided. (1-1-10)T
- c.** Provide for transfer of data, documentation, files, and other records relevant to the agreement in an electronic format accepted by the Department. (1-1-10)T
- d.** Provide for the transfer of any current, Idaho-specific policy and procedure manuals, brochures, pamphlets, and all other written materials developed in support of agreement activity to the Department. (1-1-10)T
- e.** Provide for the transfer, to the Department, of any software licenses deemed reasonably necessary by the Department for the orderly and controlled transition of the provider's responsibilities. (1-1-10)T

310. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PERFORMANCE METRICS.

01. Readiness Review. The provider must complete a readiness review conducted by the Department with the provider prior to providing fiscal employer agent services. (1-1-10)T

- a.** Required Level of Expectation: The provider must complete one hundred percent (100%) of the readiness review. (1-1-10)T
- b.** Method of Monitoring: The Department will access SFTP site for review of provider documents and conduct an onsite review. (1-1-10)T

02. Compliance with Tax Regulations and Labor Laws. The provider must ensure each participant's compliance with regulations for both federal taxes and state taxes, as well as all applicable labor laws. (1-1-10)T

- a.** Required Level of Expectation: The provider must collect, submit, and file one hundred percent (100%) of the required federal and state employer forms. (1-1-10)T
- b.** Method of Monitoring: The Department will review forms submitted to the SFTP site. (1-1-10)T
- c.** Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in not meeting a timeline required under these rules. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to submit any of the deliverables for the readiness review within the timelines required under these rules and in the readiness review, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

03. Fiscal Support and Consultation. The provider must provide each participant with fiscal support and consultation. (1-1-10)T

- a.** Required Level of Expectation: The provider must respond to ninety-five percent (95%) of participant calls within two (2) business days and to e-mails within five (5) days. (1-1-10)T
- b.** Method of Monitoring: The Department will review input from participants, families, and Department staff, customer satisfaction surveys, and review of complaint documents, log and quarterly complaint summary report placed on the SFTP site. (1-1-10)T
- c.** Strategy for Correcting Noncompliance: The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to comply within two (2) business days, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

04. Federal and State Forms Submitted. The provider must ensure each participant's compliance

with regulations for both federal taxes and state taxes, including preparation and submission of all federal and state forms for each participant and his employees. (1-1-10)T

a. Required Level of Expectation: The provider must submit one hundred percent (100%) of the required state and federal forms without errors. (1-1-10)T

b. Method of Monitoring: The Department will conduct onsite visits, and review participant and employees files placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in the failure to submit state and federal forms as required. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to submit any of the forms within two (2) business days, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

05. Mandatory Reporting, Withholding, and Payment. The provider must perform all mandatory reporting, withholding, and payment actions according to the compliance requirements of the state and federal agencies. (1-1-10)T

a. Required Level of Expectation: The provider must complete one hundred percent (100%) of all mandatory reporting, withholding, and payment actions within thirty (30) days of quarter end. (1-1-10)T

b. Method of Monitoring: The Department will conduct onsite visits, and review participant and employees files placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in the provider not performing all mandatory reporting, withholding, and payment actions within thirty (30) days of quarter end. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to submit any of the deliverables within thirty (30) days of quarter end, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

06. Payroll Checks. The provider must issue payroll checks within the two (2) week or semi-monthly payroll cycle, after receipt of completed, approved time sheets. (1-1-10)T

a. Required Level of Expectation: The provider must have less than two percent (2%) errors per quarter for all time sheets submitted within payroll cycle. (1-1-10)T

b. Method of Monitoring: The Department will review online reports, payroll documentation, input from participants, employees, and Department staff, and complaint documentation placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in not meeting a required payroll cycle. The Department will also notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to issue payroll checks as agreed in the readiness review, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

07. Adherence to Support and Spending Plan. The provider must distribute payments to each participant employee in accordance with participant's support and spending plan. (1-1-10)T

a. Required Level of Expectation: The provider must have ninety-nine percent (99%) accuracy in distributing payments in accordance with participant's support and spending plan. (1-1-10)T

b. Method of Monitoring: The Department will review a participant's support and spending plan, and review online reports placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in the provider's failure to distribute payments in accordance with participant's support and spending plan. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to adhere to the support and spending plan, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

08. Record Activities. The provider must record all activities in an individual file for each participant and his employees. (1-1-10)T

a. Required Level of Expectation: The provide must complete ninety-eight percent (98%) of the enrollment checklist, payroll inquiry, and contact note or materials distribution log. (1-1-10)T

b. Method of Monitoring: The Department will conduct onsite visits, and review participant and participant employee files and reports placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

09. Records in Participant File. The provider must maintain complete records in each participant's file. (1-1-10)T

a. Required Level of Expectation: The provider must have a one hundred percent (100%) complete record of each participant's file when audited by the Department. (1-1-10)T

b. Method of Monitoring: The Department will conduct onsite visits, and review participant files and online reports placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to maintain complete records in each participant's file, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

10. Manage Phone, Fax, and E-mail for Fiscal and Financial Questions. The provider must manage toll-free telephone line, fax, and e-mail related to participant fiscal and financial questions. (1-1-10)T

a. Required Level of Expectation: The provider must respond to ninety-five percent (95%) of participant queries within two (2) business days. (1-1-10)T

b. Method of Monitoring: The Department will conduct random testing of systems, review input from participants, employees, and Department staff, and review complaints and customer satisfaction surveys placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

11. Tracking of Complaints and Complaint Resolution. The provider must maintain a register of complaints from participants, participant employees, and others, with corrective action implemented by the provider within one (1) day of the complaint. (1-1-10)T

a. Required Level of Expectation: The provider must respond to ninety-five percent (95%) of complaints within one (1) business day. (1-1-10)T

b. Method of Monitoring: The Department will review the online complaint log, quarterly summary report, and input from employees, participants, and Department staff placed on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in the provider's failure to maintain the register of complaints from participants, participant employees, and other stakeholders. The Department will also notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

12. Web Access to Electronic Time Sheet Entry. The provider must maintain web access to electronic time sheet entry for participants. (1-1-10)T

a. Required Level of Expectation: The provider must have web access to electronic time sheet entry available ninety percent (90%) of the time during a given payroll cycle. (1-1-10)T

b. Method of Monitoring: The Department will conduct random testing of web access and review complaint logs regarding web access to electronic time sheet entry on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

13. Participant Enrollment Packets and Employment Packets. The provider must prepare and distribute participant enrollment packets and employment packets to each participant. (1-1-10)T

a. Required Level of Expectation: One hundred percent (100%) of the enrollment and employment packets must be signed by the active participants and active participant employees. (1-1-10)T

b. Method of Monitoring: The Department will verify enrollment of current participants and participants' employees by review the files on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in not meeting the required level of expectation. The Department will also notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

14. Payroll Spending Summaries. The provider must provide each participant with payroll spending summaries and information about how to read the payroll spending summary each time payroll is executed. (1-1-10)T

a. Required Level of Expectation: For each payroll cycle, the provider must distribute payroll spending summaries to at least ninety-five percent (95%) of the participants involved in self-direction. (1-1-10)T

b. Method of Monitoring: At least quarterly, the Department will review each participant's online payroll spending summary on the SFTP site. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider will notify the Department immediately if an issue is identified that may result in the provider not meeting the required level of expectation. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed.(1-1-10)T

15. Quarterly Reconciliation. Each fiscal quarter after initiating service, the provider must reconcile

its Waiver 372 Report to a zero dollar (\$0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's spending plan balance to a zero dollar (\$0) balance with Medicaid's reimbursements. (1-1-10)T

a. Required Level of Expectation: The provider must have one hundred percent (100%) compliance with the required quarterly reconciliation of the Waiver 372 Report. (1-1-10)T

b. Method of Monitoring: The Department will review each provider's Waiver 372 Reports to demonstrate accurate billing with the provider's Medicaid Billing Report and compare it with the prior authorization balances in Medicaid's automated billing system. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider will notify the Department immediately if an issue is identified that may result in the provider not reconciling the Waiver 372 Report. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized \$50.00 each week until the provider has reconciled with Medicaid to a zero dollar (\$0) balance. (1-1-10)T

16. **Cash Reserve.** Each provider's cash reserve must equal one point five (1.5) times the monthly payroll cycle amount. For example, in the case that the a provider's current payroll minimum has averaged one hundred thousand dollars (\$100,000) per payroll cycle, the provider would be required to have two hundred fifty-thousand dollars (\$250,000) in reserve. The cash reserve must ensure all participants will have the funds accessible prior to the provider billing the Department. This must maintain a consistency for the participants in the situation of any payroll errors or inaccurate invoicing to the Department. (1-1-10)T

a. Required Level of Expectation: The provider must have one hundred percent (100%) compliance with the requirement to maintain a cash reserve equal to one point five (1.5) times the monthly payroll cycle amount. (1-1-10)T

b. Method of Monitoring: The Department will review the provider's quarterly financial statements, and income statements demonstrating funds available. The provider must post these reports to the SFTP site quarterly in a folder accessible only to Medicaid Bureau of Financial Operations staff. (1-1-10)T

c. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in not meeting the required level of expectation. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to meet the required level of expectation, the remedies in Section 314 of these rules may be imposed. (1-1-10)T

311. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - REPORTS.

01. **Account Summary Statements.** This report provides an overview of each participant account and includes the services accessed and the remaining dollar amount in the budget. In addition to the provider providing this report each month, a participant may request this report for a specified timeframe. Each month, the provider must mail a hard copy of the report to each participant and must also make the report available on a secure website for those who prefer to access the information electronically. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (1-1-10)T

a. Report Format: The provider must provide the account summary statement in Microsoft Excel. (1-1-10)T

b. Report Due Date: The provider must post the account summary statement by the 10th day of each month. (1-1-10)T

02. **Medicaid Billing Report.** This report provides a detailed breakdown of services rendered by service date per employee, per employer. Each line on this report must provide, at a minimum, the following

information: employee name, employee ID number, hours worked, period start, period end, pay rate, service date, check number, check date, participant's name, participant's date of birth, participant's ID number, service code, taxes, and billing amount. This report collects information based on the timeframe specified by the user. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (1-1-10)T

a. Report Format: The provider must provide the Medicaid billing report in Microsoft Excel. (1-1-10)T

b. Report Due Date: The provider must post the Medicaid billing report by the 10th day of each month. (1-1-10)T

03. Demographic Report. This report provides general client demographics in the region and the employee count per participant for each participant in the database. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site will have a user name and password protection. (1-1-10)T

a. Report Format: The provider must provide the demographic report in Microsoft Excel. (1-1-10)T

b. Report Due Date: The provider must post the demographic report by the 10th day of each month. (1-1-10)T

04. Criminal History Check Report. This report provides a breakdown, by participant, of which employees the participant waived the background check, which employees passed or failed the background check, the criminal history reference number, and the date the background check was submitted. This report does not include support brokers. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site will have a user name and password protection. (1-1-10)T

a. Report Format: The provider must provide the criminal history report in Microsoft Word or Excel. (1-1-10)T

b. Report Due Date: The provider must post the criminal history report by the 10th day of each month. (1-1-10)T

05. Waiver 372 Report. This report provides a list and count of the unduplicated participants and expenditures by services code based on the time frame specified by the user. The provider must generate the report after every payroll and post it on a SFTP site. Additionally, the provider must provide a quarterly Waiver 372 Report that can be reconciled quarterly and must work with the Department to reconcile the annual report. (1-1-10)T

a. Report Format: The provider must provide the Waiver 372 Report in Microsoft Excel. (1-1-10)T

b. Report Due Date: The provider must post the Waiver 372 Report by 10th day of each month. (1-1-10)T

06. Complaint and Resolution Summary Report. The provider must analyze complaints received on a quarterly basis to determine the quality of services to participants and must identify any corrective actions and program improvements needed and implemented. The provider must post the report on a secure SFTP site for Department review. (1-1-10)T

a. Report Format: The provider must provide the complaint and resolution summary report in Microsoft Word or Excel. (1-1-10)T

b. Report Due Date: The provider must post the complaint and resolution summary report by the 10th day of the month following the end of each annual quarter. (1-1-10)T

07. Customer Satisfaction Survey Report. The provider must provide a comprehensive report summarizing the results of the customer satisfaction survey completed by each participant. (1-1-10)T

a. Report Format: The provider must provide the customer satisfaction survey report in Microsoft Word or Excel. (1-1-10)T

b. Report Due Date: The provider must post the customer satisfaction survey report by December 1 of each year. (1-1-10)T

08. Quarterly Financial Statements. The provider must provide the Department a quarterly balance sheet and income statement that shows the provider's quarterly cash reserve. (1-1-10)T

a. Report Format: The provider must provide the quarterly balance sheet and income statement in Microsoft Word or Excel. (1-1-10)T

b. Report Due Date: The provider must provide the quarterly balance sheet and income statement on the 25th day of the month following the end of each annual quarter. (1-1-10)T

312. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PAYMENT REQUIREMENTS.

01. Requirement to Accept a Per Member Per Month (PMPM) Payment. The Department will pay, and the provider must accept a per member per month (PMPM) payment that covers a comprehensive set of fiscal employer agent services. The provider can only bill the PMPM rate for the months services are actually provided for participants. The provider must provide transition, training, and closeout services during the active agreement, at no additional cost to the Department. (1-1-10)T

02. PMPM Payment Process Requirements. The payment (PMPM) will include all administrative costs, travel, transition, training, and closeout services. The Department will not pay for participants who do not have a support and spending plan. For the purposes of PMPM payment, one (1) month will include all payroll batch dates within that specific calendar month. The compensation for each month is calculated by multiplying the number of unduplicated participants by the PMPM rate. (1-1-10)T

03. Requirement to Complete a Readiness Review. The provider must complete a readiness review prior to billing for services. (1-1-10)T

313. TERMINATION OF FISCAL EMPLOYER AGENT SERVICES PROVIDERS.

In the event of termination of the provider agreement, the provider must ensure continuation of services to participants for the period in which a Per Member per Month (PMPM) payment has been made, and must submit the information, reports and records, including the Waiver 372 Report (reconciliation) as specified in Section 310 of these rules. (1-1-10)T

314. REMEDIES TO NONPERFORMANCE OF A FISCAL EMPLOYER AGENT SERVICE PROVIDER.

01. Remedial Action. If any of the services do not comply with the performance metrics under Section 310 of these rules, the Department will consult with the provider and may, at its sole discretion, require any of the following remedial actions, taking into account the scope and severity of the noncompliance, compliance history, the number of noncompliances, the integrity of the program, and the potential risk to participants. (1-1-10)T

a. Require the provider to take corrective action to ensure that performance meets the performance metrics under Section 310 of these rules; (1-1-10)T

b. Reduce payment to reflect the reduced value of services received; (1-1-10)T

c. Require the provider to subcontract all or part of the service at no additional cost to the Department; (1-1-10)T

or

d. Terminate the provider agreement with notice. (1-1-10)T

02. **Direct Monetary Action.** If any of the performance metrics under Section 310 of these rules are not met, the Department will enforce a fifty dollar (\$50) a week penalty for each performance metric not met. The penalty will be captured prior to any payment from the Department to the provider. (1-1-10)T

315. -- 999. **(RESERVED).**