

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 16.04.10 - Rules Governing the Community Services Block Grant Program
(Docket No. 16-0410-0902).

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 16.04.10 - Rules Governing the Community Services Block Grant Program (Docket No. 16-0410-0902) (Temporary and Proposed)

Docket no. 16-0410-0902 (hereafter “proposed rule”) deals with rules governing the community service block grant program, and is promulgated in response to the American Recovery and Reinvestment Act (ARRA) of 2009. In addition, the Department relies upon sections 56-202 and 56-203, Idaho Code, and the Community Services Block Grant Act, 42, USC 9901, et seq., as its authority. Section 56-202(b) provides the Department with broad rulemaking authority; 56-203 provides a listing of the Department’s powers, including cooperation with the federal government in carrying out the purposes of any federal acts pertaining to public assistance or welfare services. The Department has provided a copy of 42 USC section 9904 dealing with the authority of the Secretary of Health and Human Services to establish the block grant program and make grants through the program to the states to ameliorate the causes of poverty, along with a copy of the ARRA provision allocating \$1 billion for carrying out activities under the block grant program.

The Governor’s justification for the temporary rule is to confer a benefit. The temporary rule went into effect on September 1, 2009.

The Department states that it is changing the rule to exclude child support income from being counted when determining Community Services Block Grant (CSBG) program eligibility. According to the Department, this will align this program’s eligibility with other federal programs and thus reduce administrative overhead and cost and provide better service. The Department also states that the rulemaking increases the income limit for program eligibility from 125% to 200% of the FPG, as provided for in the ARRA.

According to the Department, no fee or charge is imposed by the proposed rules. There is no anticipated General Fund impact since the block grant program involves 100% federal monies. The Department states that negotiated rulemaking was not conducted because the proposed rule is in response to the ARRA.

The Department states that public hearings will be scheduled if requested in writing by 25 persons, a political subdivision or agency, not later than October 21, 2009, and that all written comments must be delivered to the Department on or before October 28, 2009.

ANALYSIS

A number of housekeeping changes are made in the proposed rule, including: adding contact information, section 005; removing an abbreviations section and adding two of these deleted abbreviations, CSBG (Community Services Block Grant) and HHS (Department of Health and Human Services), to the definitions section; moving the confidentiality of records section to section 006.01; and adding a public records request section 006.02.

One addition to the definitions section is made by the addition of “federal poverty guidelines (FPG).” Section 010.06. The definition of “low-income and poor participants” has been amended to increase the household income level of those eligible to receive CSBG services from 125% to 200% of FPG. Section 010.08.

This change in the income eligibility requirements is also reflected in the amendment to section 127. Not counted as income for eligibility purposes is child support income. Section 127.02.t.

SUMMARY

The temporary and proposed rules appear to be authorized by sections 56-202(b) and 56-203(b), Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock and Chris Baylis

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.10 - RULES GOVERNING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM

DOCKET NO. 16-0410-0902

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2009.

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 and 56-203, Idaho Code; the Community Services Block Grant Act, 42 USC 9901, et seq.; and the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, Title VIII (3).

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 Community Services Block Grant (CSBG) is a federal grant that is administered by the Department; its funds are managed under contracts with local Community Action Agencies. Block grant funds are used for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient.

Since federal statute allows states to set some of the parameters of income eligibility for the CSBG Program, the Department is changing the rule to exclude child support income from being counted when determining program eligibility. This change will align CSBG Program income eligibility with that of similar programs (e.g., the U.S. Department of Energy's Weatherization Assistance Program) since many of the same families who are eligible for the Weatherization Program would benefit from programs offered under the Community Services Block Grant. This alignment of income eligibility criteria reduces administrative overhead, reduces error, and better serves those most in need in our communities.

This rulemaking also increases the income limit for CSBG Program eligibility from 125% to 200% of the federal poverty guidelines, as provided under the American Recovery and Reinvestment Act of 2009 (ARRA). This increase in the income limit will allow the program to reach many more Idaho families with help urgently needed in this recession.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it confers a benefit.

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

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 related to the rulemaking. Community Services Block Grant (CSBG) Program monies are 100% federal.

The increase in eligibility to 200% of the Federal Poverty Guideline will allow the Department to fully obligate and spend the Community Services Block Grant economic stimulus award made available under the American Reinvestment and Recovery Act (ARRA). The spending authority for this award was provided to the Department by the 2009 Legislature.

Excluding child support income in eligibility determination would increase the number of eligible families by approximately 23% to the equivalent of 170% of Federal Poverty Limits. This change would not have an effect on the program but would make all the programs have the same child support income guidelines.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rule changes are being made to implement provisions of the ARRA.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Chris Baylis at (208) 334-5742.

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

DATED this 19th day of August, 2009.

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

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 16-0410-0902

000. LEGAL AUTHORITY.

Sections 56-202 and 56-203, Idaho Code, authorize the Idaho Department of Health and Welfare to enter into contracts with the federal government to carry out the purposes of the Community Services Block Grant Act, 42 USC 9901, et seq. ~~(3-30-01)(9-1-09)T~~

001. TITLE AND SCOPE.

01. Title. ~~These~~ title of these rules ~~are cited as Idaho Department of Health and Welfare, is~~ IDAPA 16.04.10, "Rules Governing the Community Services Block Grant Program." ~~(3-30-01)(9-1-09)T~~

02. Scope. These rules provide standards for the administration of the Community Services Block Grant Program, as authorized by the Community Services Block Grant Act, as amended under 42 USC 9901, et seq. ~~(3-30-01)(9-1-09)T~~

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

~~Administrative Appeals~~ are governed by ~~Idaho Department of Health and Welfare Rules, the provisions of~~ IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~(3-30-01)(9-1-09)T~~

004. INCORPORATION BY REFERENCE.

There are none in this chapter No documents have been incorporated by reference into these rules.
(~~3-30-01~~)(9-1-09)T

Existing Section 005 has been moved to Section 010.

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (9-1-09)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (9-1-09)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (9-1-09)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (9-1-09)T

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (9-1-09)T

006. ABBREVIATIONS.

~~**01. CSBG.** Community Services Block Grant. (3-30-01)~~

~~**02. HHS.** The United States Department of Health and Human Services. (3-30-01)~~

~~**03. SEOG.** Supplemental Education Opportunity Grants. (3-30-01)~~

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Disclosure of any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (9-1-09)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (9-1-09)T

007. -- 009. (RESERVED).

0105. DEFINITIONS.

01. CSBG. Community Services Block Grant. (9-1-09)T

~~**042. Community Action Agency.** A private, non-profit organization serving the low-income population in specified counties of the state with which the Idaho Department of Health and Welfare has contracted for the provision of CSBG services. (3-30-01)~~

~~**023. Department.** The Idaho Department of Health and Welfare. (3-30-01)~~

~~**034. Earned Income.** Cash or in-kind payment derived from employment or self-employment. Receipt of a service, benefit, or durable goods instead of wages is in-kind income. Earned income is gross earnings before deductions for taxes or any other purposes. (3-30-01)~~

~~**045. Eligible Entity.** A private, non-profit organization which is a community action agency or a~~

migrant or seasonal farm worker organization receiving CSBG funding before October 27, 1998, or designated by the Department as an eligible entity for an unserved area after October 27, 1998, and which is governed by a tripartite board, as defined in ~~Subsection 005.06~~ this rule. ~~(3-30-01)~~(9-1-09)T

06. Federal Poverty Guidelines (FPG). The poverty guidelines issued annually by the Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services web site at <http://aspe.hhs.gov/poverty/index.shtml>. (9-1-09)T

07. HHS. The United States Department of Health and Human Services. (9-1-09)T

058. Low-Income and Poor Participants. Those persons receiving or eligible to receive CSBG services who live in households having an income at or below ~~one~~ two hundred ~~twenty-five~~ percent (~~125~~ 200%) of the federal poverty guidelines. ~~(3-30-01)~~(9-1-09)T

069. Tripartite Board. A board, selected by an eligible entity, which participates in the development, planning, implementation, and evaluation of the community services block grant program, composed as follows: (3-30-01)

a. One-third (1/3) of the board members are elected public officials, currently holding office, or their representatives. Appointed public officials or their representatives will meet this requirement if the number of elected officials available and willing to serve is less than one-third (1/3) of the board membership. (3-30-01)

b. At least one-third (1/3) of the board members are representatives of low-income individuals and families, living in the neighborhoods they serve, chosen by democratic selection procedures. (3-30-01)

c. The remaining board members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served. (3-30-01)

0710. Unearned Income. Income received from sources other than employment or self-employment, such as Social Security, unemployment insurance, and workers' compensation. (3-30-01)

00711. -- 126. (RESERVED).

127. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below ~~one~~ two hundred ~~twenty-five~~ percent (~~125~~ 200%) of the federal poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(~~s2~~), ~~effective thirty (30) days after publication.~~ ~~(3-30-01)~~(9-1-09)T

01. Countable Income. All earned and unearned income is counted in determining eligibility, unless specifically excluded by rule. (3-30-01)

02. Income Not Counted. For eligibility purposes, the following types of income are not counted. (3-30-01)

a. Benefit payments from Medicare Insurance. (3-30-01)

b. State cash assistance payments. (3-30-01)

c. Child care subsidy payments. (3-30-01)

d. Private loans made to the participant or the household. (3-30-01)

e. Assets withdrawn from a personal bank account. (3-30-01)

f. Sale of real property if reinvested within three (3) calendar months. (3-30-01)

- g.** Lump sum payments from an IRA. (3-30-01)
- h.** Income tax refunds. (3-30-01)
- i.** Income from capital gains. (3-30-01)
- j.** Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than one hundred dollars (\$100). (3-30-01)
- k.** Wages or allowances paid to a live-in attendant for care of a disabled person. (3-30-01)
- l.** Interest posted to a bank account. (3-30-01)
- m.** Monies for educational purposes from ~~ASDL~~ the federal Perkins/National Direct Student Loan program, college work-study programs, state student incentive grants, ~~SEOG~~ Supplemental Education Opportunity Grants, Pell, guaranteed student loans, and supplemental grants funded under Title IV, A-2. ~~(3-30-01)~~(9-1-09)T
- n.** Monies from the VA-GI Bill for Education. (3-30-01)
- o.** Department of Health and Welfare adoption subsidies. (3-30-01)
- p.** Compensation to volunteers under the Older Americans Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, and the Title V Senior Employment Program. (3-30-01)
- q.** Payments made by a third party, non-household member for the household, such as for child care, energy assistance, shelter, food and clothing assistance. (3-30-01)
- r.** Value of food stamps or donated food. (3-30-01)
- s.** Utility allowance. (3-30-01)
- t.** Child support income. (9-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

203. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.

01. Qualified Organization in or near Area. The following organizations may apply for and be designated as eligible entities to provide services in any geographic area which stops being served by an eligible entity. (3-30-01)

a. An eligible entity or other private, nonprofit organization in the unserved area, capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this program. (3-30-01)

b. A private, nonprofit eligible entity located adjacent to or near the unserved area that is already providing related services in the unserved area. If designated, such entity would have to add additional board members to ensure adequate representation of the unserved area. (3-30-01)

02. Special Consideration. An organization with demonstrated effectiveness in meeting the goals and purposes of this program will receive the designation. Eligible entities providing related services in the unserved area, consistent with the needs identified by a community-needs assessment, may be given priority. (3-30-01)

03. No Qualified Organization in or near Area. A political subdivision of the State may serve as an

eligible entity for the area if no qualified private, nonprofit organization is available. The entity must administer the program through a tripartite board, as defined in ~~Subsection 004.06~~ 010 of these rules, or through another approved mechanism to assure decision making and participation by low-income individuals in the development, planning, implementation, and evaluation of this program. ~~(3-30-01)(9-1-09)T~~

204. -- 299. (RESERVED).

300. APPLICATION PROCESS.

Applications ~~will~~ must be received by the Department of Health and Welfare, Division of Welfare, P.O. Box 83720, 450 W. State Street, Boise, ID 83720-0036, no later than 5 p.m., ninety (90) days before the beginning of the federal fiscal year. Projects ~~shall~~ must be designed and funded to operate for one (1) twelve-month period.

~~(3-30-01)(9-1-09)T~~

301. -- 374. (RESERVED).

375. APPLICATION.

An original and one (1) copy of an application ~~shall~~ must be submitted to the Department's Division of Welfare and ~~shall~~ must include the following items:

~~(3-30-01)(9-1-09)T~~

- 01. Face Sheet.** CSBG Application Face Sheet, describing general information about the entity and the application. (3-30-01)
- 02. Budget.** A budget for the period of the grant, on forms provided by the Department. (3-30-01)
- 03. Causes of Poverty.** The results of the most recent community-needs assessment. (3-30-01)
- 04. Service Plan.** A description of how the agency will carry out the program. (3-30-01)
- 05. Work Program.** Services to be performed and estimated number of participants. (3-30-01)
- 06. Client Characteristics Report.** Demographic data on participants. (3-30-01)
- 07. Outcome Measures.** How the entity will determine the success of services. (3-30-01)
- 08. Assurances and Certifications.** Pledge by the entity to meet program requirements. (3-30-01)

376. -- 399. (RESERVED).

400. AUDIT.

Projects funded by CSBG ~~shall be~~ are subject to an annual audit of a scope and depth defined by the Department. The Department may join with other interested parties to obtain a single audit of the eligible entity. ~~(3-30-01)(9-1-09)T~~

401. -- 599. (RESERVED).

600. CORRECTIVE ACTION, TERMINATION, OR REDUCTION OF FUNDING.

01. Determination. If an eligible entity fails to comply with the terms of an agreement, or the State ~~Plan~~, to provide services; or to meet appropriate standards, goals, and other requirements, including performance objectives, the Department ~~shall~~ must inform the entity of the deficiency to be corrected and may take one (1) or more of the following steps. ~~(3-30-01)(9-1-09)T~~

- a.** Require the entity to correct the deficiency. (3-30-01)
- b.** Offer training and technical assistance, if appropriate, to help correct the deficiency, and submit a report to HHS describing the training and technical assistance offered, or stating the reasons why it was not offered. (3-30-01)

c. If feasible, allow the entity sixty (60) days to develop and implement a quality improvement plan to correct the deficiency within a reasonable period of time. (3-30-01)

d. After providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding of the eligible entity unless the entity corrects the deficiency. (3-30-01)

02. Review. The Secretary of HHS may review any decision to terminate the designation or reduce the funding of an eligible entity. (3-30-01)

601. -- 699. (RESERVED).

700. COMMUNITY FOOD AND NUTRITION PROGRAM.

Funds may be used to coordinate private and public food assistance resources, where such coordination is inadequate, to better serve low-income populations; to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and to develop innovative approaches to meet the nutrition needs of low-income individuals. ~~(3-30-01)~~(9-1-09)T

701. -- 996. (RESERVED).

~~997. CONFIDENTIALITY OF RECORDS.~~

~~Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-30-01)~~

~~998. -- 999. (RESERVED).~~