

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 16.03.01 - Eligibility for Health Care Assistance for Families and Children (Docket No. 16-0301-1001).

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 8-5-10. 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 9-2-10.

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 334-4845, or send a written request to the address or FAX number indicated on the memorandum attached.



# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

**Jeff Youtz**  
Director

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

**FROM:** Research & Legislation Staff - Paige Alan Parker *PAP*

**DATE:** July 19, 2010

**SUBJECT:** Department of Health and Welfare - IDAPA 16.03.01 - Eligibility for Health Care Assistance for Families and Children (Docket No. 16-0301-1001) (Proposed)

The Department of Health and Welfare submits this proposed and temporary rule (Docket No. 16-0301-1001) (hereinafter "proposed rule") to amend IDAPA chapter 16.03.01 dealing with eligibility for health care assistance for families and children.

The Department states that it is defining the term "financially deprived child" and providing the eligibility criteria for such a child. According to the Department, the change will have no impact on a person's eligibility and continues the Department's current policy in compliance with federal regulations. The Department does not state why the change is being made.

According to the Department, the proposed rule is authorized pursuant to sections 56-202, 56-203, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-255 and 56-257, Idaho Code, as well as 42 CFR Part 435.4(1)(B).

Sections 56-202(b), Idaho Code, provides the Department with general and broad rulemaking authority under Idaho's public assistance law. Section 56-203(b), Idaho Code, provides the Department with the power to cooperate with the federal government in carrying out the purposes of any federal acts pertaining to public assistance or welfare services, and other matters of mutual concern. Section 56-203(g), Idaho Code, grants the Department the power to define persons entitled to medical assistance in such terms as will meet requirements for federal financial participation in medical assistance payments.

**Mike Nugent, Manager**  
Research & Legislation

**Cathy Holland-Smith, Manager**  
Budget & Policy Analysis

**Don H. Berg, Manager**  
Legislative Audits

**Glenn Harris, Manager**  
Information Technology

Sections 56-236 through 56-242, Idaho Code, comprise the Idaho Health Insurance Access Card Act. Sections 56-250 through 56-255, Idaho Code, comprise the Idaho Medicaid Simplification Act. Section 56-253 of that Act provides broad powers and duties to the Director regarding the Medicaid program.

Forty-two CFR part 435.4 provides definitions and use of terms for Medicaid. The cited provision, 42 CFR part 435.4(1)(B) [435.4(1)(iii)(B)?] is part of the definition of “financial need” and provides that a optional targeted low-income child resides in a state that has a Medicaid applicable income level and has family income that does not exceed the income level specified for such child to be eligible for medical assistance under the polices of the state plan under title XIX on June 1, 1997.

According to the Department, no fee or charge is imposed by the proposed rule and there is no anticipated fiscal impact to the General Fund. According to the Department, negotiated rulemaking was not conducted because the rulemaking clarifies a policy that is already implemented. The Department states that a public hearing will be scheduled if requested in writing by 25 persons, a political subdivision or an agency, not later than July 21, 2010. All written comments must be delivered to the Department on or before July 28, 2010.

### **ANALYSIS**

The proposed rule substitutes “financially-deprived dependent child” in place of “eligible dependent child.” The proposed rule then provides a new subsection 400.04, financially-deprived child, stating that adults are not eligible for AFDC-related Medicaid unless they are the biological or adoptive parent, or relative of specified degree, of a child who is financially deprived. “Financially-deprived” is defined as either the child’s countable income and resources meeting the financial requirements for the AFDC program under 42 USC 435.4(1)(B) and sections 325 and 411 of the rule chapter or a child receiving Supplemental Security Income (SSI). Section 325 states: “The resource limit for AFDC-related coverage groups is one thousand dollars (\$1,000). The resource limit for the Low Income Pregnant Woman coverage group is five thousand dollars (\$5,000).” Section 411 provides an AFDC income limits table based on the number of budget unit (family) members. The table reflects an income limit range from \$642 for one family member to \$2,426 for ten family members.

### **SUMMARY**

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

cc: Department of Health and Welfare  
Tamara Prisock & Kathy McGill

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1001

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221, Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-253, 56-255, and 56-257, Idaho Code, and 42 CFR Part 435.4(1)(B).

**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 July 21, 2010.

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

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

The definition of a "financially deprived child" and the eligibility criteria for a "financially deprived child" are being added to these rules under Section 400, Aid to Families with Dependent Children (AFDC) - Related Budget Unit. This change will have no impact on a person's eligibility, and continues the Department's current policy in compliance with federal regulations.

**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.

This rulemaking has no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rule clarifies a policy that is already implemented.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule. N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kathy McGill at (208) 334-4934.

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 July 28, 2010.

DATED this 4th day of June, 2010.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0301-1001

**400. AFDC-RELATED BUDGET UNIT.**

A budget unit is a person or group of persons who are relatives of specified degree, as defined in Section 011 of these rules, who live in the same home with ~~an eligible~~ financially-deprived dependent child. Their needs, income, and resources are counted as a unit for AFDC adult eligibility. Eligibility is based on the number of budget unit members. ~~(3-30-07)~~( )

**01. Member of More Than One Budget Unit.** No person may receive benefits in more than one (1) budget unit during the same month. (3-30-07)

**02. More Than One Medicaid Budget Unit in Home.** If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. (3-30-07)

**03. Budget Units Not Separate.** Budget units cannot be separate if any member is a required member of both units. The units must be combined and treated as one (1) unit. (3-30-07)

**04. Financially-Deprived Child.** Adults are not eligible for AFDC-related Medicaid unless they are the biological or adoptive parent, or relative of specified degree, of a child who is financially deprived. Financial deprivation exists when a child meets one (1) of the criteria below: ( )

**a.** A child's countable income and resources meet the financial requirements for the AFDC program under 42 CFR Part 435.4(1)(B) and Sections 325 and 411 of these rules; or ( )

**b.** A child receives SSI income. ( )