

Dear Senators LODGE, Broadsword, Bock, and
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Health and Welfare - Low Income Home Emergency Assistance Program (LIHEAP):

- IDAPA 16.03.01 - Rules Pertaining To The Eligibility for Health Care Assistance for Families and Children (Docket No. 16-0301-1101);
- IDAPA 16.03.04 - Rules Pertaining To Governing the Food Stamp Program in Idaho (Docket No. 16-0304-1101);
- IDAPA 16.03.05 - Rules Pertaining To Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Docket No. 16-0305-1102);
- IDAPA 16.03.08 - Rules Pertaining To Governing the Temporary Assistance for Families in Idaho (TAFI) Program (Docket No. 16-0308-1101);
- IDAPA 16.04.14 - Rules Pertaining To Governing Low Income Home Energy Assistance Program (LIHEAP) (Docket No. 16-0414-1101).

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 10/28/2011. 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 11/25/2011.

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 enclosed.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Commerce & Human Resources Committee
FROM: Legislative Research Analyst - Ryan Bush
DATE: October 11, 2011
SUBJECT: Department of Health and Welfare - Low Income Home Emergency Assistance Program (LIHEAP)

IDAPA 16.03.01 - Rules Pertaining To The Eligibility for Health Care Assistance for Families and Children (Docket No. 16-0301-1101)

IDAPA 16.03.04 - Rules Pertaining To Governing the Food Stamp Program in Idaho (Docket No. 16-0304-1101)

IDAPA 16.03.05 - Rules Pertaining To Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Docket No. 16-0305-1102)

IDAPA 16.03.08 - Rules Pertaining To Governing the Temporary Assistance for Families in Idaho (TAFI) Program (Docket No. 16-0308-1101)

IDAPA 16.04.14 - Rules Pertaining To Governing Low Income Home Energy Assistance Program (LIHEAP) (Docket No. 16-0414-1101)

(1) 16.03.01 - Rules Pertaining To The Eligibility for Health Care Assistance for Families and Children (Docket No. 16-0301-1101)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.01 - Rules Pertaining To The Eligibility for Health Care Assistance for Families and Children. The Department states that the proposed rulemaking streamlines and improves the outcomes for individuals in need of assistance by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments. The proposed rule also lists how the Department calculates self-employment income.

The Department states that negotiated rulemaking was not conducted because the proposed changes are being made to improve outcomes for individuals in need of assistance and to improve efficiencies in the Department's business processes. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the authority granted to the Department in Section 56-202(b), Idaho Code.

(2) 16.03.04 - Rules Pertaining To Governing the Food Stamp Program in Idaho (Docket No. 16-0304-1101)

Mike Nugent Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

Don H. Berg, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.03.04 - Rules Pertaining To Governing the Food Stamp Program in Idaho. The Department states that the proposed changes are being made to allow households to conduct business with the Department electronically; to allow the Department to e-mail notices to participants; to streamline the process for determining student eligibility; to streamline the recertification process for simplified reporting households; to add a Job Search Assistance Program (JSAP) exemption for women in their third trimester of pregnancy; to refine the definition of prohibited participation; and to ensure that Idaho is in compliance with federal food stamp regulations. Specifically, this rulemaking accomplishes the following:

(1) Adds definitions for contact; adds definitions for timely and written notice to allow eligibility notices to be sent electronically to participants who so choose; revises the definition of timely notice and eliminates the definition of desk review;

(2) Revises how food stamp eligibility for students is determined by looking at average student hours over a month rather than a week;

(3) Waives the interview requirement at the six month recertification in certain cases and allows for written contact and subsequent twelve month verification of the participant's circumstances;

(4) Provides a JSAP exemption for pregnant women in their third trimester;

(5) Prohibits children from receiving Temporary Assistance for Families in Idaho (TAFI) with one caretaker relative while receiving food stamps in another household;

(6) Extends the penalty period for participants who refuse to cooperate with a state quality control review in order to comply with federal law.

The Department states that negotiated rulemaking was not conducted because this rulemaking is being done to bring the rules into compliance with federal law and to streamline and update the Food Stamps Program. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the authority granted to the Department in Section 56-202(b), Idaho Code.

(3) 16.03.05 - Rules Pertaining To Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Docket No. 16-0305-1102)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.05 - Rules Pertaining To Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD). The Department states that the proposed rulemaking streamlines and improves the outcomes for individuals in need of assistance by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments.

The Department states that negotiated rulemaking was not conducted because the proposed changes are being made to improve outcomes for individuals in need of assistance and to improve efficiencies in the Department's business processes. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the authority granted to the Department in Section 56-202(b), Idaho Code.

(4) 16.03.08 - Rules Pertaining To Governing the Temporary Assistance for Families in Idaho (TAFI) Program (Docket No. 16-0308-1101)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.08 - Rules Pertaining To Governing the Temporary Assistance for Families in Idaho (TAFI). The Department states that the proposed changes are being made to standardize household composition, income, resources and application time frames; to allow the Department to collect in all situations involving TAFI overpayment; and to provide clarification on how actions impact TAFI time limits for eligible recipients. Specifically, this rulemaking accomplishes the following:

- (1) Adds to and revises definitions;
- (2) Revises timelines for applications for assistance;
- (3) Revises the household members whose inclusion is required in a TAFI case;
- (4) Adds to and revises what constitutes excluded income;
- (5) Allows the Department to send client notices electronically; and
- (6) Requires the Department to establish a claim against a household that receives a TAFI overpayment.

The Department states that negotiated rulemaking was not conducted because the proposed rule is to clarify and update TAFI rules. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the authority granted to the Department in Section 56-202(b), Idaho Code.

(5) 16.04.14 - Rules Pertaining To Governing Low Income Home Energy Assistance Program (LIHEAP) (Docket No. 16-0414-1101)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.04.14 - Rules Pertaining To Governing Low Income Home Energy Assistance Program (LIHEAP). The Department states that it is aligning its LIHEAP rules with other eligibility assistance program rules to streamline and improve the outcomes for individuals in need of assistance. Specifically, this rulemaking aligns proposed income eligibility with the Food Stamp and Supplemental Security Income eligibility requirements that are 150% of the Federal Poverty Guidelines. The proposed rulemaking also adds definitions for Federal Poverty Guidelines and vendor and adds enforcement remedies and notification procedures for the Department if a participant or vendor knowingly provides false documentation or information in order to receive LIHEAP payments or services.

The Department states that negotiated rulemaking was not conducted because the rules are being aligned with other Department rules. A public hearing concerning this rulemaking is scheduled on October 25, 2011 at 3:00 p.m. MDT, at the DHW Central Office, 450 W. State St., Boise, ID. The Department states that there is no anticipated fiscal impact associated with this rulemaking since the program is federally funded.

The proposed rule appears to be within the authority granted to the Department in Sections 56-202(b) and 56-209(h), Idaho Code.

cc: Department of Health and Welfare - Low Income Home Emergency Assistance Program (LIHEAP)

Tamara Prisock
Kathy McGill
Rosie Andueza
Callie King
Garland Draper

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that 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.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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 Department is aligning the Eligibility for Health Care Assistance for Families and Children rules with other Department eligibility assistance program rules regarding business processes. These changes streamline and improve the outcomes for individuals in need of assistance by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes are being made to improve outcomes for individuals in need of assistance and improve efficiencies in the Department's business processes.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

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 October 26, 2011.

DATED this 31st day of August, 2011.

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1101

351. SELF-EMPLOYMENT EARNED INCOME.

Income from self-employment is treated as earned income. Countable self-employment income is the difference between the gross receipts and the allowable costs of producing the self-employment income, if the amount is expected to continue. [The Department calculates self-employment income by adding monthly income to capital gains](#)

and subtracting a deduction for expenses.

~~(3-30-07)~~()

01. Allowable Costs of Producing the Self-Employment Income. Allowable costs of producing the self-employment income include: (3-30-07)

- a. The cost of labor paid to persons not in the home; (3-30-07)
- b. The cost of stock; (3-30-07)
- c. The cost of material; (3-30-07)
- d. The cost for rent and utilities, advertising, shipping and legal fees; (3-30-07)
- e. The cost of seed and fertilizer; (3-30-07)
- f. Interest paid to purchase income-producing property, including real estate; (3-30-07)
- g. Insurance premiums; (3-30-07)
- h. Taxes paid on income-producing property; (3-30-07)
- i. Transportation, when a vehicle is an integral part of business activity; and (3-30-07)
- j. Expenses directly related to producing the goods or services and, without which, the goods or services could not be produced. (3-30-07)

02. Non-Allowable Costs of Producing the Self-Employment Income. The non-allowable costs of producing the self-employment income are: (3-30-07)

- a. Payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; (3-30-07)
- b. Net losses from previous periods; (3-30-07)
- c. Federal, State, and local income taxes; (3-30-07)
- d. Money set aside for retirement; (3-30-07)
- e. Personal expenses such as meals and transportation to and from work; (3-30-07)
- f. Personal business, personal entertainment expenses, and personal transportation costs which are not an integral part of business activity; and (3-30-07)
- g. Depreciation. (3-30-07)

03. Self-Employment Standard Deduction. The Department uses a standard self-employment deduction, unless the applicant claims that his actual allowable expenses exceed the standard deduction and provides proof of the allowable expenses described in Subsection 351.02 of this rule. The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment receipts. ()

(BREAK IN CONTINUITY OF SECTIONS)

382. EDUCATIONAL INCOME.

Any student financial assistance provided under Title IV of the Higher Education Act, the Bureau of Indian Affairs education program, Veteran's Administration educational benefits, grants, loans, scholarships, or work study is excluded. ~~(3-30-07)~~()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-1101
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective dates of the temporary rules are: February 1, 2011, March 1, 2011, and November 1, 2011.

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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-203, Idaho Code, and 7 CFR Part 273.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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:

Rule changes are being made in this chapter to allow households to conduct business with the Department electronically and allow the Department to e-mail notices to participants. Rule changes are also needed to streamline the process for determining student eligibility, as well as the recertification process for simplified reporting households. Finally, rule changes are needed to add a Job Search Assistance Program (JSAP) exemption for women who are in their third trimester of pregnancy, to refine the definition of prohibited participation, and to ensure that Idaho is in compliance with federal food stamp regulations.

Specifically, this includes:

1. Allow the Department to send eligibility notices electronically to participants who voluntarily chose an electronic method of communication.
2. Average student hours over the month, rather than by the week, when determining food stamp eligibility. This will simplify the business process for the Department and increase participation among students by allowing them flexibility to schedule their work hours around academic responsibilities and remain eligible for food stamps.
3. Allow for the interview requirement to be waived at the 6-month recertification in certain cases, allowing for written contact and subsequent verification of the participant's circumstances in lieu of the interview. This streamlines the recertification process for participants and staff by allowing for a higher completion rate, and resulting in fewer new applications (which are more labor and time intensive than the 6-month recertification).
4. Exempt women from JSAP who are in their third trimester of pregnancy, due to the difficulty in gaining employment in advanced stages of pregnancy.
5. Prohibit a child from receiving Temporary Assistance for Families in Idaho (TAFI) with one caretaker relative while receiving Food Stamps in another household. This allows the Department to proactively end participation for children who would otherwise create an overpayment resulting in subsequent hardship for the family involved.
6. Extend the penalty period for participants who refuse to cooperate with a state quality control review per federal rule change.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate. Some changes comply with deadlines in amendments to governing law or federal programs (due to changes in 7 CFR Part 273), and the rest confer benefits to Food Stamp participants.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to bring this chapter of rules into compliance with 7 CFR Part 273, and to streamline and update the Food Stamps Program thereby conferring benefits to Food Stamp participants.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rosie Andueza at (208) 334-5553.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 31st day of August, 2011.

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THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 16-0304-1101

010. DEFINITIONS A THROUGH D.

For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Adequate Notice. Notice a household must receive on or before the first day of the month an action by the Department is effective. (4-6-05)

02. Administrative Error Claim. A claim resulting from an overissuance caused by the Department's action or failure to act. (6-1-94)

03. Aid to the Aged, Blind and Disabled (AABD). Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. (4-11-06)

04. Applicant. A person applying for Food Stamps. (6-1-94)

05. Application for Participation. The application form filed by the head of the household or authorized representative. (6-1-94)

06. Application for Recertification. When a household applies for recertification within thirty (30) days of the end of the certification period, it is considered an application for recertification even if a partial month of benefits is received. (4-11-06)

07. Authorized Representative. A person designated by the household to act on behalf of the household to apply for or receive and use Food Stamps. Authorized representatives include private nonprofit organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients. (4-11-06)

08. Battered Women and Children's Shelter. A shelter for battered women and children which is a public or private nonprofit residential facility. If the facility serves others, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. (6-1-94)

09. Boarder. Any person or group to whom a household, other than a commercial boarding house, furnishes meals and lodging in exchange for an amount equal to or greater than the thrifty food plan. Children, parents and spouses in a household must not be treated as boarders. (6-1-94)

10. Boarding House. A licensed commercial enterprise offering meals and lodging for payment to make a profit. (6-1-94)

11. Categorical Eligibility. If all household members receive or are authorized to receive monthly cash payment through TAFI, AABD or SSI, the household is categorically eligible. Categorically eligible households are exempt from resource, gross and net income eligibility standards. (4-11-06)

12. Certification Determination. Actions necessary to determine household eligibility including interviews, verification, approval, denial, field investigation, analysis and corrective action necessary to insure prompt, efficient and correct certifications. (6-1-94)

13. Certification Period. The period of time a household is certified to receive Food Stamp benefits. The month of application counts as the first month of certification. (4-11-06)

14. Contact. A six-month or twelve-month contact is a mid-certification update that may or may not include an interview with the participant. (2-1-11)T

~~145.~~ **Claim Determination.** The action taken by the Department establishing the household's liability for repayment when an overissuance of Food Stamps occurs. (6-1-94)

~~156.~~ **Client.** A person entitled to or receiving Food Stamps. (6-1-94)

~~167.~~ **Department.** The Idaho Department of Health and Welfare. (6-1-94)

~~17.~~ **Desk Review.** A desk review is a recertification that may or may not include talking to the participant. (4-11-06)

18. Disqualified Household Members. Individuals required to be excluded from participation in the Food Stamp Program are Disqualified Household Members. These include: (6-1-94)

a. Ineligible legal non-citizen who do not meet the citizenship or eligible legal non-citizen requirements. (7-1-98)

b. Individuals awaiting proof of citizenship when citizenship is questionable. (6-1-94)

c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN). (6-1-94)

d. Individuals disqualified for Intentional Program Violation (IPV). (6-1-94)

- e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children. (7-1-98)
- f. Individuals disqualified as a fugitive felon or probation or parole violator. (7-1-98)
- g. Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (7-1-98)
- h. Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)
- i. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (3-30-01)

19. Documentation. The method used to record information establishing eligibility. The information must sufficiently explain the action taken and the proof and how it was used. (6-1-94)

20. Drug Addiction or Alcoholic Treatment Program. Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation based centers may qualify if FCS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

012. DEFINITIONS M THROUGH Z.

For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Migrant Farmworker Household. A migrant farmworker household has a member who travels from community to community to do agricultural work. (4-6-05)

02. Minimum Utility Allowance (MUA). Utility deduction given to a food stamp household that has a cost for one (1) utility that is not heating, cooling, or telephone. (3-29-10)

03. Nonexempt. A household member who must register for and participate in the JSAP program. A household member who must register for work. (6-1-94)

04. Nonprofit Meal Delivery Service. A political subdivision or a private nonprofit organization, which prepares and delivers meals, authorized to accept Food Stamps. (6-1-94)

05. Overissuance. The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. (6-1-94)

06. Parental Control. Parental control means that an adult household member has a minor in the household who is dependent financially or otherwise on the adult. Minors, emancipated through marriage, are not under parental control. Minors living with children of their own are not under parental control. (4-6-05)

07. Participant. A person who receives Food Stamp benefits. (4-6-05)

08. Program. The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. (6-1-94)

- 09. Public Assistance.** Public assistance means Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, and Disabled (AABD). (4-6-05)
- 10. Recertification.** A recertification is a process for determining ongoing eligibility for Food Stamps. (4-11-06)
- 11. Retail Food Store.** A retail food store, for Food Stamp purposes means: (6-1-94)
- a.** An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)
- b.** Public or private communal dining facilities and meal delivery services. (6-1-94)
- c.** Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)
- d.** Public or private nonprofit group living arrangements. (6-1-94)
- e.** Public or private nonprofit shelters for battered women and children. (6-1-94)
- f.** Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. (6-1-94)
- g.** A farmers' market. (6-1-94)
- h.** An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FCS. (7-1-98)
- 12. Sanction.** A penalty period when an individual is ineligible for Food Stamps. (3-30-07)
- 13. Seasonal Farmworker Household.** A seasonal farmworker household has a member who does agricultural work of a seasonal or other temporary nature. (4-6-05)
- 14. Spouse.** Persons who are living together, married or free to marry, and are holding themselves out as man and wife. (4-6-05)
- 15. Standard Utility Allowance (SUA).** Utility deduction given to a food stamp household that has a cost for heating or cooling. (4-11-06)
- 16. State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)
- 17. State Agency.** The Idaho Department of Health and Welfare. (6-1-94)
- 18. Student.** An individual between the ages of eighteen (18) and fifty (50), physically and intellectually fit, and enrolled at least half-time in an institution of higher education. (6-1-94)
- 19. Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements. (4-11-06)
- 20. Systematic Alien Verification for Entitlements (SAVE).** The federal automated system that provides immigration status needed to determine an applicant's eligibility for many public benefits, including Food Stamps. (4-11-06)
- 21. Telephone Utility Allowance (TUA).** Utility deduction given to a Food Stamp household that has a cost for telephone services and no other utilities. (3-29-10)

22. **Timely Notice.** Notice that is mailed via the U. S. Postal Service, or electronically, at least ten (10) days before the effective date of an action taken by the Department. ~~(4-6-05)~~(2-1-11)T

23. **Twelve Month Contact.** For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (4-6-05)

24. **Tribal General Assistance.** Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. This cash is intended to promote the health and well-being of recipients. (4-11-06)

25. **Verification.** The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)

26. **Verified Upon Receipt.** Food stamp benefits are adjusted on open food stamp cases when information is received from "verified upon receipt" sources. Information "verified upon receipt" is received from a manual query or automated system match with the Social Security Administration or Homeland Security query for citizenship status. (3-30-07)

27. **Written Notice.** Correspondence that is generated by any method including handwritten, typed, or electronic, delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. The terms "notice" and "written notice" are used interchangeably. (2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

113. HOUSEHOLD COOPERATION.

The household must cooperate with the Department. The application must be denied if the household refuses to cooperate. Refusal to cooperate includes failing to act without a sound and timely excuse. Giving false information on purpose is failure to cooperate. The Department must show false information was given on purpose before denying the application. The household is ineligible if it refuses to cooperate in a ~~later review~~ six-month or twelve-month contact, recertification, program review or evaluation. If an application is denied or Food Stamps are stopped for refusal to cooperate, the household can reapply. The household is not eligible until it cooperates with the Department. ~~(6-1-94)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

137. PROOF FOR QUESTIONABLE INFORMATION.

Prior to the certification, a six-month or twelve-month contact, or recertification of the household, the Department must verify all questionable information regarding eligibility and benefit level. Proof is required when details are not consistent with information received by the Department. Proof may be obtained either verbally or in writing. ~~(4-6-05)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

162. EXPEDITED SERVICES FOR DESTITUTE HOUSEHOLDS.

Migrant or seasonal farmworker households meeting destitute conditions below can get expedited services. The rules for destitute households apply at initial application, the six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. ~~(7-1-97)~~(2-1-11)T

01. Terminated Source of Income. The household's only income for the application month was received before the application date and was from a terminated source. The household is considered destitute. Terminated income is income received monthly or more often, no longer received from the same source the rest of the application month or the next month or income received less often than monthly, not expected in the month the next regular payment is normally due. (6-1-94)

02. New Income in Application Month. When only new income is expected in the application month, the household is considered destitute. Only twenty-five dollars (\$25), or less, of new income can be received in the ten (10) days after the application date. Income is new if twenty-five dollars (\$25), or less, is received during the thirty (30) days before the application date. New income received less often than monthly was not received in the last normal payment interval or was twenty-five dollars (\$25) or less. (6-1-94)

03. Terminated Income and New Income in Application Month. Destitute households can get terminated income before the application date and new income before and after the application date. New income must not be received for ten (10) days after application and must not exceed twenty-five dollars (\$25). The household must get no other income in the application month. (6-1-94)

04. Application Month. For the application month, count only income received between the first day of the month and the application date. Do not count income from a new source expected after the application date. (6-1-94)

163. SPECIAL CONSIDERATION OF INCOME FOR DESTITUTE HOUSEHOLDS.

Special consideration of income for destitute households is listed below. The rules for destitute households apply at initial application, a six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. ~~(7-1-97)~~(2-1-11)T

01. Travel Advances. For destitute eligibility and benefit level, travel advances apply as follows: Travel advances from employers for travel costs to a new employment location are excluded. Travel advances against future wages are counted as income, but not a new source of income. (6-1-94)

02. Household Member Changes Job. A person changing jobs with the same employer is still getting income from the same source. A migrant's income source is the grower, not the crew chief. When a migrant moves with a crew chief from one (1) grower to another, the income from the first grower is ended. The income from the next grower is new income. (6-1-94)

03. Recertification or Six-Month or Twelve-Month Contact. Disregard income from the new source for the first month of the new certification period if more than twenty-five dollars (\$25) will not be received by the tenth calendar day after the normal issuance. ~~(6-1-94)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

203. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

Before certification, households must provide the Department the SSN, or proof of application for SSN, for each household member. If a household member has more than one (1) SSN, he must provide all of his SSNs. Each SSN must be verified by the Social Security Administration (SSA). A household member with an unverified SSN is not eligible for Food Stamp benefits. The ineligible person's income and resources must be counted in the Food Stamp budget. If benefits are reduced or ended, because one (1) or more persons fail to meet the SSN requirement, the household must be notified in writing. (3-20-04)

01. Application for SSN. (3-20-04)

a. If a household member does not have an SSN, he must apply for an SSN. After the household member files the SSN application, he may receive Food Stamp benefits while the SSN is assigned. (3-20-04)

- b. If a household member is unable to provide his SSN, he must apply for a duplicate SSN card. (3-20-04)
- c. If a household member does not know if he has an SSN, he must apply for an SSN. (3-20-04)
- d. If a household member has a questionable SSN, he must apply for an SSN. (3-20-04)
- e. If the person is unable to get the proof required by SSA for an SSN, the Department will help the person get proof. (3-20-04)

02. Proof of Application for an SSN for a Newborn. A newborn may receive Food Stamp benefits when the household cannot provide proof of application for an SSN for the newborn. Proof of application for an SSN for that child must be provided at the next Food Stamp six-month or twelve-month contact or recertification or six (6) months after the month the child was born, whichever is later. If the household does not provide proof of SSN or application for SSN, the child will be ineligible to receive Food Stamp benefits the month following the month the household failed to provide the proof. ~~(3-20-04)~~(2-1-11)T

03. SSN Requirements for Expedited Food Stamp Service. Households entitled to expedited service under the criteria in Section 155 of this chapter of rules will be asked to furnish an SSN or proof of application for SSN for each person in the household applying for benefits before the first day of the second full month of Food Stamp participation. Those household members unable to provide the SSN or who do not have one prior to the second full month of participation may be allowed to continue to participate only if they satisfy the good cause requirements in Subsections 203.04.a. through 203.04.c. of this rule. (3-20-04)

04. Good Cause for Not Applying for SSN. If a household member can show good cause why an SSN application was not completed in a timely manner, an extension must be granted to allow him to receive Food Stamp benefits for one (1) month in addition to the month of application. Good cause for failure to apply must be shown monthly in order for such a household member to continue to participate. Good cause is described below: (3-20-04)

- a. Good cause exists if the application for SSN was not processed in a timely manner by the SSA. (3-20-04)
- b. Good cause exists if documents or collateral data show the household applied for, or made every effort to apply for, an SSN. (6-1-94)
- c. Good cause does not include household-caused delays due to illness, lack of transportation, or temporary absences. (6-1-94)

05. Exception for Religious Objection. The Department may assign an identification number to a person who is applying for Food Stamps, but who, because of well-established religious objections as defined under 42 CFR 435.910, refuses to obtain an SSN. The identification number may be either an SSN obtained by the Department on the applicant's behalf or another unique identifier. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

219. CIRCUMSTANCES UNDER WHICH FOOD STAMP PARTICIPATION IS PROHIBITED.

- 01. Prohibition from Receiving Food Stamp Benefits.** An individual is prohibited from receiving Food Stamp benefits at the time of application if he: (4-7-11)
- a. Receives tribal commodities; (4-6-05)
 - b. Is incarcerated; (4-6-05)

- c. Is in an institution; (4-6-05)
- d. Is in foster care and the foster parents are receiving a cash benefit for providing care and maintenance for the child; (4-7-11)
- e. Receives Food Stamp benefits in another household; ~~or~~ ~~(4-7-11)~~(2-1-11)T
- f. Is deceased; or ~~(4-7-11)~~(2-1-11)T
- g. Receives cash benefits in a TAFI Caretaker Relative household. (2-1-11)T

02. Prohibited Participation During the Certification Period. If the Department learns of prohibited participation during the certification period, it will act to end benefits for that individual. (4-7-11)

220. (RESERVED)

221. DETERMINATION OF HOUSEHOLD COMPOSITION.

Household composition must be determined at application, a six-month or twelve-month contact, recertification, and when a reported change in household members would result in an increase in the food stamp benefits. ~~(3-29-10)~~(2-1-11)T

222. -- 225. (RESERVED)

226. JOB SEARCH ASSISTANCE PROGRAM (JSAP).

The JSAP program is designed to help Food Stamp recipients become self-sufficient. (7-1-99)

01. JSAP Status. All household members, unless exempt, must participate in JSAP. Household members who are on strike must participate in JSAP. Members who are not migrants in the job stream must participate in JSAP. Determine the JSAP status of a participant at certification, a six-month or twelve-month contact, recertification, and when household changes occur. ~~(7-1-99)~~(2-1-11)T

02. JSAP Information. Explain, both in writing and orally, the JSAP requirement, rights, responsibilities, and the result of failure to comply. (7-1-99)

227. EXEMPTIONS FROM JSAP.

Exemptions from JSAP are listed in Subsections 227.01 through 227.12 of these rules. (5-3-03)

01. Parents or Caretakers of a Child Under Six Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6) is exempt from JSAP. If the child becomes six (6) during the certification period, the parent or caretaker must register for JSAP at the next scheduled six-month or twelve-month contact or recertification, unless exempt for another reason. ~~(5-3-03)~~(2-1-11)T

02. Parents and Caretakers of an Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability is exempt from JSAP. (5-3-03)

03. Persons Who Are Incapacitated. A person who is physically or intellectually unfit for employment is exempt from JSAP. If a disability is claimed which is not evident, proof to support the disability can be required. Acceptable proof includes receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (5-3-03)

04. Students Enrolled Half Time. A student who is eighteen (18) years or older is exempt from JSAP if: (4-11-06)

a. He is enrolled at least half-time in any institution of higher learning and if he meets the definition of an eligible student in Section 282 of these rules; or (5-3-03)

- b. He is enrolled at least half-time in any other recognized school or training program. (5-3-03)
- c. He remains enrolled during normal periods of class attendance, vacation, and recess. If he graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), he must register for work at the next scheduled six-month or twelve-month contact or recertification. ~~(4-11-06)~~(2-1-11)T
- 05. SSI Applicants.** A person who is applying for SSI is exempt from JSAP until SSI eligibility is determined. (5-3-03)
- 06. Persons Who Are Employed.** A person who is employed is exempt from JSAP if: (5-3-03)
- a. He is working at least thirty (30) hours per week; or (5-3-03)
- b. He is receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours; or (5-3-03)
- c. He is a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (5-3-03)
- 07. Persons Who Are Self-Employed.** A person who is self-employed is exempt from JSAP if he is working a minimum of thirty (30) hours per week or is receiving earnings equal to or greater than the Federal minimum wage multiplied by thirty (30) hours. (5-3-03)
- 08. Addicts or Alcoholics.** A regular participant in a drug or alcohol treatment and rehabilitation program is exempt from JSAP. (6-1-94)
- 09. Unemployment Insurance (UI) Applicant/Recipient.** A person receiving UI is exempt from JSAP. A person applying for, but not receiving UI, is exempt from JSAP if he is required to register for work with the Department of Commerce and Labor as part of the UI application process. (5-3-03)
- 10. Children Under Age Sixteen.** A child under age sixteen (16) is exempt from JSAP. A child who turns sixteen (16) within a certification period must register for JSAP at the six-month or twelve-month contact or recertification, unless exempt for another reason. ~~(5-3-03)~~(2-1-11)T
- 11. Persons Age Sixteen or Seventeen.** A household member age sixteen (16) or seventeen (17) is exempt from JSAP if he is attending school at least half-time, or is enrolled in an employment and training program, including GED, at least half-time. (5-3-03)
- 12. Participants Age Sixty or Older.** A participant age sixty (60) or older is exempt from JSAP. (5-3-03)
- 13. Pregnant Women.** A pregnant woman in her third trimester is exempt from JSAP. (11-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

272. VOLUNTARY QUIT OR REDUCTION OF WORK HOURS DURING THE LAST MONTH OF THE CERTIFICATION PERIOD.

If the Department determines a member of the household voluntarily quit a job or reduced work hours, without good cause, in the last month of the six-month or twelve-month contact or certification period the voluntary quit or work reduction penalty is imposed. ~~(7-1-98)~~(2-1-11)T

01. No Reapplication. If the household does not apply for recertification in the last month of the six-month or twelve-month contact or certification, the appropriate penalty is imposed. Begin the penalty the first month

after the last month of the certification. The penalty is in effect should the household apply during the penalty period. ~~(7-1-98)~~(2-1-11)T

02. Reapplication. If the household does apply for recertification in the last month of the six-month or twelve-month contact or certification period, the person quitting work or reducing hours is ineligible. The penalty is imposed, beginning the first month after the last month of the six-month or twelve-month contact or certification period. ~~(4-5-00)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

284. DETERMINING STUDENT ELIGIBILITY.

To be eligible for Food Stamps, a student must meet at least one (1) of the criteria listed below: (6-1-94)

01. Employment. (11-1-11)T

a. The student is employed a minimum of ~~twenty eighty~~ (280) hours per ~~week~~ month and is paid for such employment: or (11-1-11)T

b. The student is self-employed a minimum of ~~twenty eighty~~ (280) hours per ~~week~~ month; and (11-1-11)T

c. The student must earn at least the Federal minimum wage times ~~twenty eighty~~ (280) hours. ~~(6-1-94)~~(11-1-11)T

02. Work Study Program. The student is in a State or Federally financed work study program during the regular school year. The student exemption begins the month the school term begins, or the month the work study is approved, whichever is later. The exemption continues until the end of the month the school term ends, or it becomes known the student has refused an assignment. The student work study exemption stops when there are breaks of a full calendar month or longer between terms, without approved work study. The exemption only applies to months the student is approved for work study. (7-1-97)

03. Caring for Dependent Child. The student is responsible for the care of a dependent household member under age six (6). There must not be another adult in the household available to care for the child. Availability of adequate child care is not a factor. The student is responsible for the care of a dependent household member at least age six (6) but under age twelve (12). The Department must determine adequate child care is not available to enable the student to attend class and satisfy the twenty (20) hour work requirement. The student must be a single parent responsible for the care of a dependent child under the age of twelve (12). The student is enrolled full-time in an institution of higher education. Full-time enrollment is determined by the institution. Availability of adequate child care is not a factor. (6-1-94)

04. TAFI Participant. The student gets cash benefits from the TAFI program. (7-1-98)

05. Training. The student is assigned to or placed in an institution of higher education through or complying with: The WIA program. The JOBS program. The JSAP program. A program under Section 236 of the Trade Act of 1974. A program for employment and training operated by a State or local government. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

303. COUNTING RESOURCES.

At the time of application, a six-month or twelve-month contact, or recertification, a household must report all countable resources it has. Resources are identified and evaluated, as of the Food Stamp interview date, to determine if they are counted or excluded. ~~(4-7-11)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

351. EXCLUDED RESOURCES.

Some resources do not count against the limit because they are excluded. Resources excluded by federal law are also excluded for Food Stamps. Exclusions from resources are listed in Sections 352 through 370~~82~~. ~~(6-1-94)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

389. REPORTING RESOURCES.

Households receiving food stamps must report resource changes at each recertification, or at a six-month or twelve-month contact. ~~(3-29-10)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

405. EXCLUDED INCOME.

Income excluded when computing Food Stamp eligibility is listed below: (6-1-94)

01. Money Withheld. Money withheld voluntarily or involuntarily, from an assistance payment, earned income, or other income source, to repay an overpayment from that income source, is excluded. If an intentional noncompliance penalty results in a decrease of benefits under a means tested program such as SSI or GA, count that portion of the benefit decrease attributed to the repayment as income. (7-1-98)

02. Child Support Payments. Child support payments received by TAFI recipients which must be given to CSS are excluded as income. (7-1-98)

03. Earnings of Child Under Age Eighteen Attending School. Earned income of a household member under age eighteen (18) is excluded. The member must be under parental control of another household member and attending elementary or secondary school. For the purposes of this provision, an elementary or secondary student is someone who attends elementary or secondary school or who attends GED or home-school classes that are recognized, operated, or supervised by the school district. This exclusion applies during semester and summer vacations if enrollment will resume after the break. If the earnings of the child and other household members cannot be differentiated, prorate equally among the working members and exclude the child's share. (7-1-98)

04. Retirement Benefits Paid to Former Spouse or Third Party. Social Security retirement benefits based on the household member's former employment, but paid directly to an ex-spouse, are excluded as the household member's income. Military retirement pay diverted by court order to a household member's former spouse is excluded as the household member's income. Any retirement paid directly to a third party from a household member's income by a court order is excluded as the household member's income. (6-1-94)

05. Infrequent or Irregular Income. Income received occasionally is excluded as income if it does not exceed thirty dollars (\$30) total in a three (3) month period. (6-1-94)

06. Cash Donations. Cash donations based on need and received from one (1) or more private nonprofit charitable organizations are excluded as income. The donations must not exceed three hundred dollars (\$300) in a calendar quarter of a federal fiscal year (FFY). (6-1-94)

07. Income in Kind. Any gain or benefit, such as meals, garden produce, clothing, or shelter, not paid in money, is excluded as income. (6-1-94)

08. Vendor Payments. A vendor payment is a money payment made on behalf of a household by a person or organization outside of the household directly to either the household's creditors or to a person or organization providing a service to the household. (3-20-04)

09. Third Party Payments. If a person or organization makes a payment to a third party on behalf of a household using funds that are not owed to the household, the payment shall be excluded from income. (3-20-04)

10. Loans. Loans are money received which is to be repaid. Loans are excluded as income. (6-1-94)

11. Money for Third Party Care. Money received and used for the care and maintenance of a third party who is not in the household. If a single payment is for both household members and nonhousehold members the identifiable portion of the payment for nonhousehold members is excluded. If a single payment is for both household members and nonhousehold members, exclude the lesser of: (6-1-94)

a. The prorated share of the nonhousehold members if the portion cannot be identified. (6-1-94)

b. The amount actually used for the care and maintenance of the nonhousehold members. (6-1-94)

12. Reimbursements. Reimbursements for past or future expenses not exceeding actual costs. Payments must not represent a gain or benefit. Payments must be used for the purpose intended and for other than normal living expenses. Excluded reimbursements are not limited to: (6-1-94)

a. Travel, per diem, and uniforms for job or training. (6-1-94)

b. Out-of-pocket expenses of volunteer workers. (6-1-94)

c. Medical and dependent care expenses. (6-1-94)

d. Pay for services provided by Title XX of the Social Security Act. (6-1-94)

e. Repayment of loans made by the household from their personal property limit. The repayment must not exceed the amount of the loan. (6-1-94)

f. Work-related and dependent care expenses paid by the JSAP program. (6-1-94)

g. Transitional child care payments. (6-1-94)

h. Child care payments under the Child Care and Dependent Block Grant Act of 1990. (6-1-94)

13. Federal Earned Income Tax Credit (EITC). Federal EITC payments are excluded as income. (9-1-94)

14. Work Study. Work Study income received while attending post-secondary school is excluded as income. (3-20-04)

15. HUD Family Self-Sufficiency (FSS) Escrow Account. The federal exclusion for these funds are only excluded while the funds are in the escrow account or being used for a HUD approved purpose. See Section 363 of these rules for further clarification. (4-11-06)

16. Temporary Census Earnings. Wages earned for temporary employment related to U. S. Census activities are excluded as income during the regularly scheduled ten (10) year U. S. Census. (4-7-11)

17. Income Excluded by Federal Law. If income is excluded by federal law, it is excluded for Food Stamps. (2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

500. FOOD STAMP BENEFIT DETERMINATION.

Food Stamp benefits are determined at application, a six-month or twelve-month contact, recertification, and when a change is reported. Benefit determination requires two separate actions. First, determine if the household is eligible for Food Stamps. Second, if the household is eligible, compute the Food Stamp issuance. Use the household's projected resources, income, expenses, and household composition to determine eligibility and Food Stamp amount. Use the household's past and current income, resources, expenses, and household composition to project future circumstances. ~~(6-1-94)~~(2-1-11)T

501. INITIAL CHANGES IN FOOD STAMP CASE.

Act on changes in household circumstances found during the application or the initial interview. (6-1-94)

01. Anticipated Changes. A household can be eligible in the application month, but not eligible the month after the application month because of expected changes in circumstances. The household may not be eligible for the application month, but eligible for the next month. The same application form is used for the denial and the next month's eligibility determination. (6-1-94)

02. Food Stamps for the Application Month. The household's Food Stamp issuance for the application month may differ from its issuance in later months. (6-1-94)

03. Food Stamp Issuance Changes. The Department will make changes to the household's Food Stamp issuance when it is required to act on a change. (3-30-07)

04. Change Before Certification. If a household reports a change in household circumstances before certification and the Department can act on the change, include the reported information in determining Food Stamp eligibility and amount. (6-1-94)

05. Change After Certification. If a household reports a change after the initial Food Stamp benefit has been paid, the Department must act on the change if it was required to be reported or would increase the household's Food Stamp benefits under these rules. Changes in the household's expenses will not be acted upon until a six-month or twelve-month contact, or recertification. Notice of the change must be given to the Food Stamp household. ~~(4-6-05)~~(2-1-11)T

502. EARNED INCOME WHEN A HOUSEHOLD MEMBER TURNS AGE EIGHTEEN.

When a child attending elementary or secondary school turns age eighteen (18), do not count earned income received or expected by that person until the next six-month or twelve-month contact, or recertification. ~~(4-11-06)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

573. ACTING ON HOUSEHOLD COMPOSITION CHANGES.

Changes in household composition are not required to be reported. If a household does report a change in household composition, and the change would increase the Food Stamp benefit, proof is needed to act on the change. If proof is provided within ten (10) days, increase the Food Stamp benefits beginning the month immediately following when the change was reported. If proof is not provided within ten (10) days, increase the Food Stamp benefit beginning the month after the proof is provided. If the reported change decreases the Food Stamp benefit, the change is effective at the next six-month or twelve-month contact, or recertification ~~or twelve-month (12)-contact.~~ ~~(3-29-10)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

576. CERTIFICATION PERIODS.

A certification period must be assigned for each household. Households must be assigned a certification period based on household circumstances at the time of application approval, recertification, and at the six-month or twelve-month

contact in accordance with 7 CFR 273.10(f) and 273.12. Households are assigned a ~~six (6)~~ twelve-month certification period unless they meet the criteria for extended certification, in which case they are assigned a twenty-four (24) month certification period. At the end of each six-month or twelve-month contact or certification period, entitlement to Food Stamps ends. Further eligibility starts only upon successful completion of a six-month or twelve-month contact, or a recertification based upon a newly completed application, an interview, and verification. The certification period cannot be lengthened nor can benefits be continued beyond the end of a certification period without a new determination of eligibility. ~~(3-29-10)~~(2-1-11)T

577. CHANGING THE CERTIFICATION PERIOD.

01. Twenty-Four Month Certification Period. If a household has ~~an extended~~ a twenty-four-month certification period, and at the twelve-month contact it is determined that they remain eligible but they no longer meet the criteria for extended certification, the current certification will be ended and a ~~six~~ twelve-month certification period will be assigned for ongoing benefits. ~~(3-29-10)~~(2-1-11)T

02. Twelve-Month Certification Period. If a household has a twelve-month certification, and at the six-month contact it is determined that they remain eligible and meet the criteria for extended certification, the current certification will be ended and a twenty-four-month certification will be assigned for ongoing benefits. ~~(3-29-10)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

611. TIME FRAMES FOR REPORTING CHANGES IN HOUSEHOLD CIRCUMSTANCES.

Households must report changes in circumstances as required in Section 601 of these rules. Households reporting required changes to the Department must do so by the tenth day of the month following the month in which the change occurred. (3-29-10)

01. Must Not Impose Added Reporting Requirements. The Department must not require additional household reporting not listed in these rules. (6-1-94)

02. Report Form. The Department must give households a Change Report Form at certification, at the six-month or twelve-month contact, at recertification, when the household reports a change, and when the household requests the form. ~~(3-29-10)~~(2-1-11)T

03. Reporting Methods. Changes can be reported by telephone, personal contact, mail, or e-mail. Changes can be reported by a household member or authorized representative. (3-29-10)

04. Failure to Report. If Food Stamps are overissued because a household fails to report required changes, a Claim Determination must be prepared. A person can be disqualified for failure to report a change if he commits an Intentional Program Violation. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

615. CHANGES IN SHELTER, DEPENDENT CARE, CHILD SUPPORT, OR MEDICAL EXPENSES.

A household reporting a change in shelter, utility, dependent care, child support, or medical expenses will be not required to provide proof of the change until recertification ~~or~~ and the six-month or twelve-month contact. The Department will not adjust the Food Stamp benefit during the certification period regardless of whether the change in expenses would cause the Food Stamp benefit to increase or decrease. ~~(3-29-10)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

619. CHANGES NOT REQUIRED TO BE REPORTED.

If the household reports a change not required to be reported that would result in a decrease in Food Stamp benefits, the Department will not request proof and will not take action until recertification and the six-month or twelve-month contact. The household must be notified that no action will be taken on the reported change. ~~(4-11-06)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

646. NOTICE OF DECISION FOR TIMELY RECERTIFICATION.

A Notice of Decision must be sent to households that reapply for Food Stamps. To receive Food Stamps with no break in issuance, households must apply for complete a six-month or twelve-month contact or recertification before the fifteenth day of the last month of certification or six-month or twelve-month contact period. If the household applies before the fifteenth day of the month, the Department will notify the household of eligibility or denial by the end of the current certification period. ~~(4-11-06)~~(2-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

793. NARCOTIC ADDICT AND ALCOHOLIC TREATMENT CENTERS.

Narcotic addicts and their children residing in a treatment center may qualify for Food Stamps. Alcoholics and their children residing in a treatment center may qualify for Food Stamps. Food Stamp rules for residents in a drug addiction or alcohol treatment and rehabilitation program lasting at least thirty (30) days are listed below: (9-1-94)

01. Optional Appointment of Authorized Representative. Unless the household requests it, the center will not be made authorized representative on the household's own EBT card for months of benefits received while not in the center. (4-5-00)

02. Center Provides Certification List. Each month, each center must give the Field Office a list of current client residents. The list's accuracy must be certified in writing by the center manager or designee. The Department must conduct random on-site visits to assure list accuracy. If the list is not accurate, or the Department fails to act on the change, the Department may transfer the Food Stamp amount from the center's account to the household's Food Stamp account, for the months the household was not living in the center. (4-5-00)

03. Resident and Nonresident Clients. Eligible narcotic addicts or alcoholics must be certified as one (1) person households. Eligible narcotic addicts with children or alcoholics with children residing in a center must be certified as one (1) household. Clients not residing at the treatment center are certified under normal procedures. (9-1-94)

04. Food Stamp Basis. Eligibility and Food Stamp amounts must be based on income and resources. (6-1-94)

05. Work Registration. Resident clients are exempt from work registration. (6-1-94)

06. Expedited Processing. When the application needs expedited processing, Food Stamps must be received by the seventh calendar day after the application date. (7-1-98)

07. Normal Processing. If processing under normal procedures, the Department must verify circumstances before determining eligibility. Changes, six-month or twelve-month contacts, and recertifications are processed using the standards for all other households. Resident clients have the same rights to adverse action notices, fair hearings and lost Food Stamps as all other households. ~~(6-1-94)~~(2-1-11)T

08. Center Misusing Food Stamps. The Department must promptly notify FCS if it believes a center is misusing Food Stamps. The Department must not take action before FCS takes action against the center. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

883. QUALITY CONTROL AND FOOD STAMP ELIGIBILITY.

State Quality Control (SQC) is the Department's case review system. SQC determines rates of correct Food Stamp issuances and Department and recipient caused errors. Quality control reviews open Food Stamp cases, denials and closures. The quality control review period extends from October 1st to September 30th of the next year. Households selected for quality control review by State Quality Control (SQC) and Federal Quality Control (FQC) must cooperate with both reviews. If a household refuses to cooperate in a SQC or FQC review, it is ineligible for Food Stamps as shown below: (3-30-07)

01. Refusal to Cooperate with SQC or FQC. If a household refuses to cooperate in a SQC or FQC review, it is not eligible. The SQC analyst or FQC reviewer must notify the appropriate Department Self Reliance Specialist (SRS) of the household's refusal to cooperate. (3-30-07)

a. The Department must send the household advance notice to end Food Stamps. The notice must list the reason for the proposed action, the right to a hearing, the right to schedule a conference or to continue the SQC or FQC review. (3-30-07)

b. The Department will close the Food Stamp case. (6-1-94)

02. Food Stamp Eligibility During Quality Control Review Period, After Refusal to Cooperate. The household is not eligible for Food Stamps during the Quality Control review period until it cooperates with the SQC or FQC review. (3-30-07)

03. Food Stamps After Review Period, Refusal to Cooperate With SQC. The household is not eligible for Food Stamps ~~until one hundred thirteen (113) days after the end of the annual review period~~ for the period of time set forth in 7 CFR 273.02. After this time: ~~(3-30-07)~~(3-1-11)T

a. The household must reapply. (6-1-94)

b. The household must supply proof of all current eligibility information before certification. (6-1-94)

04. Food Stamps After Review Period, Refusal to Cooperate with FQC. The household is not eligible for Food Stamps ~~until seven (7) months after the end of the annual review period~~ for the period of time set forth in 7 CFR 273.02. After this time: ~~(3-30-07)~~(3-1-11)T

a. The household must reapply. (6-1-94)

b. The household must supply proof of all current eligibility information before certification. (6-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-1102

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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 Department is aligning the Eligibility for Aid to the Aged, Blind, and Disabled (AABD) rules with other Department eligibility assistance program rules regarding business processes. These changes streamline and improve the outcomes for individuals in need of assistance by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes are being made to improve outcomes for individuals in need of assistance and improve efficiencies in the Department's business processes.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Callie King at (208) 334-0663.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 31st day of August, 2011.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0305-1102

402. SELF-EMPLOYMENT ALLOWABLE EXPENSES.

Allowable ~~o~~ operating expenses subtracted from self-employment income are listed in Subsections 402.01 through 402.167 of this rule. (7-1-99)()

01. Self-Employment Standard Deduction. The Department uses a standard self-employment deduction, unless the applicant claims that his actual allowable expenses exceed the standard deduction and provides proof of the allowable expenses described in Subsection 402.02 through 402.17 of this rule. The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as calculated in Section 401 of these rules. ()

- 042. Labor.** Labor paid to individuals not in the family. (7-1-99)
- 023. Materials.** Materials such as stock, seed and fertilizer. (7-1-99)
- 034. Rent.** Rent on business property. (7-1-99)
- 045. Interest.** Interest paid to purchase income producing property. (7-1-99)
- 056. Insurance.** Insurance paid for business property. (7-1-99)
- 067. Taxes.** Taxes on income producing property. (7-1-99)
- 078. Business Transportation.** Business transportation as defined by the IRS. (7-1-99)
- 089. Maintenance.** Landscape and grounds maintenance. (7-1-99)
- 0910. Lodging.** Lodging for business related travel. (7-1-99)
- 101. Meals.** Meals for business related travel. (7-1-99)
- 142. Use of Home.** Costs of partial use of home for business. (7-1-99)
- 123. Legal.** Business related legal fees. (7-1-99)
- 134. Shipping.** Business related shipping costs. (7-1-99)
- 145. Uniforms.** Business related uniforms. (7-1-99)
- 156. Utilities.** Utilities for business property. (7-1-99)
- 167. Advertising.** Business related advertising. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

422. VA EDUCATIONAL BENEFITS.

VA educational payments funded by the government, ~~but not part of vocational rehabilitation, are unearned income excluded.~~ (7-1-99)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING THE TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI) PROGRAM

DOCKET NO. 16-0308-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260 through 265.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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:

Rule changes are being made to standardize household composition, income, resources and application time frames. Further, rule changes are needed to allow the Department to collect in all situations involving TAFI overpayments. Rule changes are also needed to provide clarification on how actions impact TAFI time limits for eligible recipients.

Specifically, the following changes are being made:

1. Change TAFI rules to more clearly define application timelines and those individuals living in the applicants household who are required to be included on the TAFI case.
2. Update rules regarding treatment of income and resources to align them with other Self-Reliance programs.
3. Add rule to allow for collection of overpayments in all situations. Current TAFI rules only allow for collection of overpayments in the event of an intentional program violation.
4. Make changes to various Sections to add clarity and to allow for client notices to be sent electronically.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done simply to clarify and update the TAFI rules.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rosie Andueza at (208) 334-5553.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 31st day of August, 2011.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0308-1101

010. DEFINITIONS.

- 01.** Agency Error. A benefit error caused by the Department's action or failure to act. ()
- 042.** **Applicant.** An individual who applies for Temporary Assistance for Families in Idaho. (7-1-98)
- 023.** **Assistance.** Cash payments, vouchers, and other benefits designed to meet a family's ongoing basic needs. Assistance includes recurring benefits, such as transportation and child care, conditioned on participation in work activities. (3-30-01)
- 034.** **Caretaker Relative.** An adult specified relative other than parents who have an eligible related child residing with them and who are responsible for the child's care. (5-8-09)
- 05.** Claim Determination. The action taken by the Department establishing the household's liability for repayment when a TAFI overpayment occurs. ()
- 046.** **Department.** The Idaho Department of Health and Welfare. (7-1-98)
- 057.** **Dependent Child.** A child under the age of eighteen (18), or under the age of nineteen (19) and attending, full time, a secondary school or the equivalent level of vocational or technical training. (3-30-01)
- 068.** **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. (7-1-98)
- 079.** **Family.** A family is an eligible individual or group of eligible individuals living in a common residence, whose income and resources are considered in determining eligibility. Spouses living together in a common residence are considered a family. Unrelated adults who are the parents of a common child are considered a family. Adult relatives who reside together are considered separate families. Unrelated families living in a common residence are considered separate families. (3-30-01)
- 08.** Family Unit. A unit of eligible individuals that includes parents or may include caretaker relatives, who have an eligible related child residing with them. (5-8-09)
- 0910.** **Good Cause.** The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-98)
- 11.** Household. A unit of eligible individuals that includes parents and step-parents, or may include caretaker relatives who have an eligible child residing with them. ()

- 12.** Inadvertent Household Error (IHE). A benefit error caused unintentionally by the household. ()
- 103.** **Noncustodial Parent.** A parent legally responsible for the support of a dependent minor child, who does not live in the same household as the child. (3-30-01)
- 14.** **Parent.** The mother or father of the dependent child. In Idaho, a man is presumed to be the child's father if he is married to the child's mother at the time of conception or at the time of the child's birth. (7-1-98)
- 125.** **Participant.** An individual who has signed a Personal Responsibility Contract. (7-1-98)
- 136.** **Personal Responsibility Contract (PRC).** An agreement negotiated between a family and the Department that is intended to result in self-reliance. (7-1-98)
- 147.** **Temporary Assistance for Families in Idaho (TAFI).** Idaho's family assistance program. TAFI replaced the Aid to Families With Dependent Children (AFDC) program. (3-30-01)
- 158.** **Temporary Assistance for Needy Families (TANF).** The Federal block grant provided to Idaho and used to fund TAFI. TANF funds other programs and services, including career enhancement and emergency assistance. (3-30-01)
- 169.** **Unearned Income.** Income received from sources other than employment or self-employment, such as Social Security, unemployment insurance, and workers' compensation. (7-1-98)
- 20.** Step-Parent. An individual in the TAFI household who is married to the parent of an eligible child when there are no children in common. ()

(BREAK IN CONTINUITY OF SECTIONS)

108. APPLICATION FOR ASSISTANCE.

The application form must be signed by an adult participant, a legal guardian or a representative, and must be received by the Department. A new TAFI application is required if the application was denied for failure to provide required verification and more than thirty (30) days have elapsed since the household applied. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

116. PERSONAL RESPONSIBILITY CONTRACT (PRC).

A personal responsibility contract must be negotiated and signed by the family mandatory adults household members defined under Section 125 of these rules, and all application activities must be completed before eligibility can be approved. The family must continue to comply with ongoing personal responsibility contract requirements to remain eligible. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

125. ~~BUDGETING FOR PARENTAL CARETAKERS~~ MANDATORY TAFI HOUSEHOLD MEMBERS.

Individuals who must be included in the family are listed in Subsections 125.01 through 125.03~~4~~ of this rule. (5-8-09)()

- 01. Children.** Children under the age of eighteen (18) or, under the age of nineteen (19) if they are

attending a secondary school or the equivalent level of vocational or technical training full time. Children must reside with a parent who exercises care and control of them. A dependent child's natural or adoptive brother or sister, including half (1/2) siblings, living in the same home as the dependent child must be included in the family.

(5-8-09)

02. Parents. Parents who have an eligible natural or adopted child residing with them. (7-1-98)

03. Pregnant Woman. A pregnant woman with no other children who is in at least the third calendar month before the baby is due and is unable to work due to medical reasons. (4-5-00)

04. Step-Parents. Individuals who are married to the parent of a dependant child. ()

05. Spouses. Anyone related by marriage to another mandatory household member. ()

(BREAK IN CONTINUITY OF SECTIONS)

163. WORK ACTIVITIES RESPONSIBILITY.

All adults mandatory household members are required to participate in work activities, up to forty (40) hours per week. A child between the ages of sixteen (16) and eighteen (18), who is not attending school, must participate up to forty (40) hours per week in assigned work activities. A single custodial parent of a child less than six (6) years of age is not required to participate in a work activity if one of the reasons listed in Subsections 163.01 through 163.03 occurs. ~~(3-15-02)~~()

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (7-1-98)

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (7-1-98)

03. Child Care Not Available. Appropriate and affordable child care is not available. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

200. RESOURCE LIMIT.

The total of the entire family's countable resources must not be greater than ~~two~~ five thousand dollars (\$~~25~~5,000) in any month. Resources are money, financial instruments, vehicles, and real property. ~~(7-1-98)~~()

(BREAK IN CONTINUITY OF SECTIONS)

215. EXCLUDED INCOME.

The types of income listed in Subsections 215.01 through 215.38 of this rule, are excluded. (4-7-11)

01. Supportive Services. Supportive services payments. (7-1-98)

02. Work Reimbursements. Work-related reimbursements. (7-1-98)

03. Child's Earned Income. Earned income of a dependent child, who is attending school. (7-1-98)

04. Child Support. Child support payments assigned to the State and non-recurring child support

- payments received in excess of that amount. (7-1-98)
- 05. Loans.** Loans with a signed, written repayment agreement. (7-1-98)
- 06. Third Party Payments.** Payments made by a person directly to a third party on behalf of the family. (7-1-98)
- 07. Money Gifts.** Money gifts, up to one hundred dollars (\$100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)
- 08. TAFI.** Retroactive TAFI grant corrections. (7-1-98)
- 09. Social Security Overpayment.** The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. (7-1-99)
- 10. Interest Income.** Interest posted to a bank account. (7-1-98)
- 11. Tax Refunds.** State and federal income tax refunds. (7-1-98)
- 12. EITC Payments.** EITC payments. (7-1-98)
- 13. Disability Insurance Payments.** Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-98)
- 14. Sales Contract Income.** Taxes and insurance costs related to sales contracts. (7-1-98)
- 15. Foster Care.** Foster care payments. (7-1-98)
- 16. Adoption Assistance.** Adoption assistance payments. (7-1-98)
- 17. Food Programs.** Commodities and food stamps. (7-1-98)
- 18. Child Nutrition.** Child nutrition benefits. (7-1-98)
- 19. Elderly Nutrition.** Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)
- 20. Low Income Energy Assistance.** Benefits paid under the Low Income Energy Assistance Act of 1981. (7-1-98)
- 21. Home Energy Assistance.** Home energy assistance payments under Public Law 100-203, Section 9101. (7-1-98)
- 22. Utility Reimbursement Payment.** Utility reimbursement payments. (7-1-98)
- 23. Housing Subsidies.** An agency or housing authority pays a portion of or all of the housing costs for a participant. (5-8-09)
- 24. Housing and Urban Development (HUD) Interest.** Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-98)
- 25. Native American Payments.** Payments authorized by law made to people of Native American ancestry. (7-1-98)
- 26. Educational Income.** Educational income, ~~except that AmeriCorps living allowances, stipends, and AmeriCorps Education Award minus attendance costs are earned income~~ includes deferred repayment education loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized

institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. (7-1-98)()

27. **Work Study Income of Student.** College work study income. (7-1-98)
28. **VA Educational Assistance.** VA Educational Assistance. (7-1-98)
29. **Senior Volunteers.** Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)
30. **Relocation Assistance.** Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)
31. **Disaster Relief.** Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)
32. **Radiation Exposure Payments.** Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)
33. **Agent Orange.** Agent Orange settlement payments. (7-1-98)
34. **Spina Bifida.** Spina bifida allowances paid to children of Vietnam veterans. (7-1-99)
35. **Japanese-American Restitution Payments.** Payments by the U.S. Government to Japanese-Americans, their spouses, or parents (or if deceased to their survivors) interned or relocated during World War II. (3-30-01)
36. **Vista Payments.** Volunteers in Service to America (VISTA) payments. (3-30-01)
37. **Subsidized Employment.** Employment for which the employer receives a subsidy from public funds to offset a portion or all of the wages and costs of employing an individual. This type of employment is a short-term placement, pays prevailing wage, and a specific skill is acquired. The employment is prescribed through a memorandum of agreement with no guarantee of permanent employment for the participant. (5-8-09)
38. **Temporary Census Income.** All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten (10) year U.S. Census. (4-7-11)
39. **Income Excluded By Federal Law.** Income excluded by federal law is not counted in determining income available to the participant. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. DEPARTMENT NOTIFICATION RESPONSIBILITY.

Notification must be provided to a family whenever eligibility or the grant amount changes. The notification must state the effective date and the reason for the action, the rule that supports the action, and the family's appeal rights. Notification may be delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

302. ADVANCE NOTIFICATION NOT REQUIRED.

Notification must be provided by the date of the action, but advance notification is not required when a condition listed in Subsections 302.01 through 302.07 exists. (3-30-07)

- 01. Family Request.** The family requests closure of the grant *in writing*. (7-1-98)()
- 02. Family Member in Institution.** A family member is admitted or committed to an institution. (7-1-98)
- 03. Family's Address Unknown.** The family's whereabouts are unknown and Department mail is returned showing no known forwarding address. (7-1-98)
- 04. TANF Received in Another State.** A family member is receiving TANF in another state. (7-1-98)
- 05. Child Removed.** A child family member is removed from the home due to a judicial determination. (7-1-98)
- 06. Intentional Program Violation (IPV).** An IPV disqualification begins the first month after the month the member receives written notice of disqualification. (7-1-98)
- 07. Failure to Comply with Personal Responsibility Contract.** A participant fails to comply with activities agreed to in the participant's Personal Responsibility Contract. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

318. CONTINUATION PENDING LOCAL HEARING DECISION.

The family may continue to receive assistance during the hearing process if the Department receives the request for continued benefits within ten (10) days from the date the notification was mailed. Assistance will be continued at the current month's level while the hearing decision is pending, unless the twenty-four (24) month limit is reached or another change affecting the family's eligibility occurs, including failure to cooperate with requirements of the Personal Responsibility Contract while waiting for the Fair Hearing decision. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

332. NOTICE OF OVERPAYMENT.

The Department must notify the participant when an *IPV* overpayment exists. The notice must inform the participant of mandatory recovery, the right to a hearing, the method for repayment and the need to arrange a repayment interview. (7-1-99)()

333. INADVERTENT HOUSEHOLD ERROR AND AGENCY ERROR TAFI OVERPAYMENTS.

An overpayment exists when a household receives a TAFI payment that exceeds the amount they were eligible to receive. The Department must establish a claim against the household, to recover the value of the overpaid TAFI benefit. ()

01. Inadvertent Household Error (IHE). An IHE is an error caused by an adult household member, without intent to cause an overpayment, which results in an overpayment. Examples of IHE claims are: ()

a. Failure to Give Information. A household, without intent to cause an overpayment, fails to give correct or complete information. ()

b. Failure to Report a Change that was required to be reported. A household, without intent to cause an overpayment, fails to report changes or to report at all. ()

c. Failure to Comply. A household, without intent to cause an overpayment, fails to comply due to a language barrier, educational level, or not understanding written or verbal instructions. ()

d. Benefits Paid Pending a Hearing. A household gets continued TAFI pending a fair hearing decision and the hearing decision, when made, is against the household. ()

02. Agency Error (AE). An agency error overpayment claim results from an overpayment caused by a Department action, or failure to act. ()

~~333.~~ 334. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 U.S.C. Sections 8621 to 8629, Low Income Home Energy Assistance Act of 1981.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 25, 2011, 3:00 p.m.

**DHW Central Office
450 West State Street
Conference Room 2A
Boise, ID**

The hearing site 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 Department is aligning the Low Income Home Energy Assistance Program (LIHEAP) rules with other Department eligibility assistance program rules to streamline and improve the outcomes for individuals in need of assistance. The proposed income eligibility will be aligned with the Food Stamp and Supplemental Security Income eligibility requirements that are 150% of the Federal Poverty Guidelines (FPG).

Definitions will be added for the FPG and vendor. Also, enforcement remedies will be added including actions that can be taken by the Department in the event of a participant or vendor knowingly falsifies documentation or information to receive LIHEAP payments and services.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking. This program is 100% federally funded by a fixed block grant award.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these rules are being aligned with other Department rules.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Garland Draper (208) 334-5686.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 31st day of August, 2011.

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 PROPOSED TEXT OF DOCKET 16-0414-1101

010. DEFINITIONS.

Definitions applicable to this chapter of rules. (3-30-07)

01. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which the Department has entered into a contract for the provision of services for purposes of LIHEAP. (3-30-07)

02. Crisis Assistance. Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (3-30-07)

03. Department. The Department of Health and Welfare or its designee. (3-30-07)

04. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services website at: <http://aspe.hhs.gov/poverty/>. ()

045. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-99)

056. Head of Participant Household. The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)

067. Income. Income is the gross amount of moneys actually received in the participant household from all sources. (4-5-00)

078. Intake Manual. Manual used by community action agencies for procedural policy and benefit calculation factors, which is published annually by the Department. (3-30-07)

089. Participant. An individual or group of individuals who has made application for the Low Income Home Energy Assistance Program from the state of Idaho. (3-30-07)

0910. Participant Household. A participant household is one (1) of the following: (3-30-07)

a. An individual who lives alone; or (3-30-07)

b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or they make undesignated payments for energy in the form of rent. (3-30-07)

101. Primary Fuel. The type of fuel declared by the participant household to be the major source of

their home heating. (7-1-99)

12. Undocumented Resident. Individuals who enter the United States illegally and who have not obtained legal resident status. (3-30-07)

13. Vendor. A utility company or other provider of fuel utilized for home heating. ()

(BREAK IN CONTINUITY OF SECTIONS)

151. INCOME ELIGIBILITY REQUIREMENTS.

Under 42 U.S.C. 8624(b)(2)(B)(ii), Assistance under this program is limited to participant households with countable income at or below ~~sixty percent (60%) of Idaho's "State Median Income Estimate." State median income is defined in 42 USC 8622(11). The federal "State Median Income Estimate" for Idaho. (<http://www.acf.hhs.gov/programs/oes/liheap/guidance/information-memoranda/im09-05.html>)~~ **one hundred fifty percent (150%) of the Federal Poverty Guideline.** Participant households must provide proof of income for all members during the application process. (3-29-10)()

01. Households Receiving SSI or Food Stamps. Households in which one (1) or more individuals are receiving one (1) of the following are eligible for LIHEAP: ()

a. Supplemental Security Income (SSI) under Title XVI of the Social Security Act; or ()

b. Food Stamps under the Food Stamp Act of 1977, under 7 USC 2011 through 2027. ()

02. Income Not Counted. Income listed in Subsections 151.01.a. through 151.01.v. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (3-15-02)

a. Benefit payments from Medicare Insurance. (4-5-00)

b. Private loans made to the participant or the household. (4-5-00)

c. Assets withdrawn from a personal bank account. (4-5-00)

d. Sale of real property, if the funds are reinvested within three (3) calendar months. (3-15-02)

e. Income tax refunds. (4-5-00)

f. Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (4-5-00)

g. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)

h. Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)

i. Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)

j. Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (3-15-02)

k. Monies from VA-GI Bill for Education. (4-5-00)

- l.** Department of Health and Welfare Adoption subsidies. (4-5-00)
 - m.** Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)
 - n.** Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)
 - o.** Value of food stamps or donated food to household. (4-5-00)
 - p.** Utility allowance. (4-5-00)
 - q.** TAFI lump sum payments. (3-15-02)
 - r.** Tribal crop or land payments. (3-15-02)
 - s.** AmeriCorps stipend. (3-15-02)
 - t.** Child support income. (3-29-10)
- 023.** **Income Received Monthly.** To determine LIHEAP eligibility and benefit amount, when participant household income is received at least monthly, use the three (3) month's income prior to the date of application. (4-5-00)
- 034.** **Income Received Less Often Than Monthly.** For household income received less often than monthly convert the income into a three (3) month amount: (4-5-00)
- a.** Multiply income received weekly by twelve and nine tenths (12.9). (4-5-00)
 - b.** Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (4-5-00)
 - c.** Multiply income received twice each month by six (6). (4-5-00)
- 045.** **Seasonal and Self-Employment Income.** For households with seasonal or self-employment income divide the annual income by four (4). (4-5-00)
- 056.** **Treatment of Undocumented Resident Income.** If a household includes eligible and ineligible undocumented resident participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income and exclude the undocumented resident from the household count. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

302. OVERPAYMENTS.

~~All overp~~ Payments issued on behalf of a participant household that is not eligible ~~to receive~~ must be repaid to the Department. (7-1-99)(____)

303. RECOUPMENT OF OVERPAYMENT.

01. Recoupment of Overpayment. The Department may recoup or recover the amount issued on behalf of a LIHEAP participant. Interest will accrue on overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Recoupment of an overpayment based on Department error may be collected from a vendor or participant when the overpayment is one

hundred dollars (\$100), or more. Interest will not accrue on overpayments made due to Department error. An overpayment due to vendor or participant error, intentional program violations (IPV), or fraud must be recovered in full. ()

02. Repayment Requirement. A vendor or participant must repay any overpayment, but may negotiate a repayment schedule with the Department. Failure to comply with the negotiated repayment agreement will result in revocation of that agreement and may result in the revocation of the vendor agreement. ()

304. -- 309. (RESERVED)

310. INTENTIONAL PROGRAM VIOLATIONS (IPV).

An IPV is an intentionally false or misleading action or statement as identified below in Subsections 310.01 through 310.07 of this rule. An IPV is established when a vendor or participant admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a determination of guilt because the accused vendor or participant meets the terms of a court order or an agreement with the prosecutor. ()

01. False Statement. An individual or vendor makes a false statement to the Department, either orally or in writing, in order to participate in LIHEAP. ()

02. Misleading Statement. An individual or vendor makes a misleading statement to the Department, either orally or in writing, to participate in LIHEAP. ()

03. Misrepresentation of Fact. An individual or vendor misrepresents one (1) or more facts to the Department, either orally or in writing, to participate in LIHEAP. ()

04. Concealing Fact. An individual or vendor conceals or withholds one (1) or more facts to participate in LIHEAP. ()

05. Non-Compliance With Rules and Regulations. An individual or vendor fails repeatedly or substantially to comply with this chapter of rules. ()

06. Violation of Vendor Agreement. A vendor or any agent thereof who knowingly violates any term of the vendor agreement. ()

07. Failure to Repay. An individual or vendor has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or vendor agreement. ()

311. PENALTIES FOR AN IPV.

When the Department determines an IPV was committed, the participant or vendor who committed the IPV loses eligibility to participate in LIHEAP. If an individual in a LIHEAP household has committed an IPV, the entire household is ineligible for LIHEAP. If a vendor has committed an IPV, the vendor is ineligible to receive payments. The period of ineligibility for each offense, for both a participant or a vendor, is as follows: ()

01. First Offense. Twelve (12) months, for the first IPV or fraud offense, or the length of time specified by the court. ()

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. ()

03. Third Offense. Permanent ineligibility for the third or subsequent IPV or fraud offense, or the length of time specified by the court. ()

312. -- 319. (RESERVED)

320. DENIAL OF PAYMENT.

The Department may deny payment to the vendor or participant for the reasons described in Subsections 320.01 through 320.04 of this rule. ()

01. Services Not Provided. Any or all claims for vendor services the Department determines were not provided. ()

02. Contrary to Rules or Provider Agreement. Vendor services provided contrary to these rules or the vendor agreement. ()

03. Failure to Provide Immediate Access to Records. The vendor does not allow immediate access by the Department to LIHEAP records. ()

04. Willful Misrepresentation or Concealment of Facts. The vendor or participant willfully misrepresents or conceals facts relating to LIHEAP. ()

321. -- 349. (RESERVED)

350. TERMINATION OF VENDOR STATUS.

Under Section 56-209h, Idaho Code, the Department may terminate the vendor agreement of, or otherwise deny vendor status for a period up to five (5) years from the date the Department's action becomes final to any individual or entity providing LIHEAP. ()

01. Submits an Incorrect Claim. Submits a claim with knowledge that the claim is incorrect. ()

02. Fraudulent Claim. Submits a fraudulent claim. ()

03. Knowingly Makes a False Statement. Knowingly makes a false statement or representation of material facts in any document required to be maintained or submitted to the Department. ()

04. Immediate Access to Documentation. Fails to provide, upon written request by the Department, immediate access to documentation required to be maintained. ()

05. Non-Compliance With Rules and Regulations. Fails repeatedly or substantially to comply with the rules and regulations governing LIHEAP payments. ()

06. Violation of Material Term or Condition. Knowingly violates any material term or condition of the vendor agreement. ()

07. Failure to Repay. Has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or vendor agreement. ()

08. Fraudulent or Abusive Conduct. Has been found, or was a managing employee in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of LIHEAP funded services. ()

351. REFUSAL TO ENTER INTO AN AGREEMENT.

The Department may refuse to enter into a vendor agreement for the reasons described in Subsections 351.01 through 351.05 of this rule. ()

01. Convicted of a Felony. The vendor has been convicted of a felony relating to their involvement in a public assistance program. ()

02. Failed to Repay. The vendor has failed to repay the Department monies which had been previously determined to have been owed to the Department. ()

03. Investigation Pending. The vendor has a pending investigation for program fraud or abuse.

()

04. Terminated Vendor Agreement. The vendor was the managing employee, officer, or owner of an entity whose vendor agreement was terminated under Section 350 of these rules. ()

05. Excluded Individuals. The vendor has a current exclusion from participation in federal programs by the Office of Inspector General List of Excluded Individuals and Entities. ()

352. VENDOR OR PARTICIPANT NOTIFICATION.

When the Department determines any actions defined in Sections 303 through 351 of these rules are appropriate, it will send written notice of the decision to the vendor or participant. The notice will state the basis for the action, the length of the action, the effect of the action on the participant or the vendor's ability to provide services under state and federal programs, and appeal rights. ()

~~305~~3. -- 994. (RESERVED)