

Dear Senators LODGE, Broadsword, Bock, and
Representatives MCGEACHIN, Bilbao, Rusche :

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

IDAPA 16.03.19 - Certified Family Homes (Fee Rule) (Docket No. 16-0319-1101)

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 07/28/2011. 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 08/25/2011.

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 Health & Welfare Committee
FROM: Principal Legislative Research Analyst - Brooke Murdoch
DATE: July 11, 2011
SUBJECT: Department of Health and Welfare

16.03.19 - Certified Family Homes (Fee Rule) (Docket No. 16-0319-1101)

The Department of Health and Welfare submits notice of temporary and proposed fee rulemaking at IDAPA 16.03.19 - Certified Family Homes. House Bill No. 260, adopted by the 2011 Legislature, created new Section 56-264, Idaho Code, which grants rulemaking authority to the Department to "develop applicant and licensing fees to cover certifying and recertifying costs" for certified family homes. Accordingly, this rulemaking establishes a one-time, non-refundable fee of \$150.00 for applicants seeking certification and a recertification fee of \$25.00 per month. I spoke with Randy May of the Department to confirm that the "recertification fee" is considered a "license fee" consistent with statutory language.

The Department states that the "total projected income from collections for FY2012 is anticipated to be \$660,000. The Department's projected cost for ongoing operation is \$599,400. The remainder of the collections will be used for indirect service costs. The collections are to be used to offset Personnel and Operating expenditures. This Certified Family Home Fund for fees will shift and reduce state general and federal funds by \$299,700 each, and will increase the Department's dedicated fund receipts by \$599,400."

Negotiated rulemaking was not conducted because this rulemaking is consistent with changes made to the Idaho Code by the 2011 Legislature.

This temporary and proposed fee rule appears to be within the authority granted to the Department of Health and Welfare in Section 56-264, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock & Karen Vasterling

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.19 - CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1101 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-264,(6),(f), Idaho Code, as adopted in HB 260 by the 2011 Legislature.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2011.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department, under HB 260 adopted by the 2011 Legislature, is required to implement licensing fees to cover the certification and recertification costs for certified family homes. These rule changes adopt fees to cover the costs of certification and recertification of certified family homes, add and correct references to statutes, and provides enforcement action for nonpayment of the recertification fees.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1),(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The 2011 Legislature adopted HB 260, which added Sections 56-260 through 56-266, Idaho Code, effective on July 1, 2011.

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:

The 2011 Legislature under HB 260 requires the Department to implement applicant and licensing fees for certification and re-certification costs for certified family homes. This statute is effective July 1, 2011.

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:

Total projected income from collections for SFY2012 is anticipated to be \$660,000. The Department's projected cost for ongoing operation is \$599,400. The remainder of the collections will be used for indirect service costs. The collections are to be used to offset Personnel and Operating expenditures. This Certified Family Home Fund for fees will shift and reduce state general and federal funds by \$299,700 each, and will increase the Department's dedicated fund receipts by \$599,400.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2012 Legislature adopted HB 260 that requires the Department to collect fees for certification and recertification of Certified Family Homes.

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 Karen Vasterling at (208) 239-6260.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 3rd day of June, 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 TEMPORARY RULE & PROPOSED TEXT
OF FEE DOCKET NO. 16-0319-1101**

000. LEGAL AUTHORITY.

The ~~State of~~ Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-350~~4~~⁵, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop certification and recertification criteria, and to charge and collect initial certification and recertification fees. ~~(4-11-06)~~(7-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

101. APPLICATION FOR CERTIFICATION.

The applicant must apply for certification on forms provided by the Department, pay the initial certification fee, and ~~must~~ provide information required by the Department. ~~(4-11-06)~~(7-1-11)T

- 01. Completed and Signed Application.** A completed application form signed by the applicant. (4-11-06)
- 02. Statement to Comply.** A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions. (4-11-06)
- 03. Criminal History and Background Clearance.** Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including a criminal history clearance as provided in Section 009 of these rules. (4-11-06)
- 04. Statement Disclosing Revocation or Disciplinary Actions.** A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any such action. (4-11-06)
- 05. Electrical Inspection.** A current statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local code. (4-11-06)
- 06. Environmental Sanitation Inspection.** If the home is not on a municipal water supply or sewage disposal system, a current statement is needed from the local environmental health agency that the water supply and

sewage disposal system meet the legal standards. If the local environmental health agency cannot provide this information, the home must obtain a statement to that effect. In addition, the applicant must provide a signed statement that the water supply and sewage disposal system are in good working order. (4-11-06)

07. Proof of Insurance. Proof of homeowner's or renter's insurance on the home and the resident's belongings. For continued certification, insurance must be kept current. (4-11-06)

08. List of Individuals Living in the Home. A list of all individuals living in the home at the time of application and their relationship to the applicant. (4-11-06)

09. Payment of Initial Certification. Payment of the initial certification fee required in Section 109 of these rules. (7-1-11)T

109. Other Information as Requested. Other information that may be requested by the Department for the proper administration and enforcement of the provisions of this chapter. (4-11-06)

101. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 101 of these rules is not provided in a timely manner, or not provided in the form requested by the Department, or both. (4-11-06)

102. -- 1098. (RESERVED)

109. INITIAL CERTIFICATION AND RECERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. Initial Certification Fee Amount. A provider is required to pay to the Department at the time of application a one-time non-refundable certification fee of one hundred fifty (\$150) dollars. (7-1-11)T

02. Recertification Fees. A provider is required to pay to the Department a recertification fee of twenty-five (\$25) dollars per month. This amount will be billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. Failure of the provider to pay recertification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. (7-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Home's Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the home is not in substantial compliance with this chapter. (4-11-06)

02. Causes for Revocation of the Certificate. The Department may revoke any certificate to include the following causes: (4-11-06)

a. The certificate holder has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (4-11-06)

b. The home is not in substantial compliance with these rules; (4-11-06)

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (4-11-06)

d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted

by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (4-11-06)

e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a home; (4-11-06)

f. The provider has violated any of the conditions of a provisional certificate; (4-11-06)

g. The home has one (1) or more core issues. A core issue is a deficiency that endangers the health, safety, or welfare of any resident; (4-11-06)

h. An accumulation of minor violations that, taken as a whole, would constitute a major deficiency; (4-11-06)

i. Repeat violations of any requirement of these rules or of the Idaho Code; (4-11-06)

j. The home lacks the ability to properly care for the type of residents residing at the home, as required by these rules or as directed by the Department; (4-11-06)

k. The home is not in substantial compliance with the provisions for services, resident rights or admissions; (4-11-06)

l. Certificate holder refuses to allow the Department or Protection and Advocacy agencies full access to the home environment, home records, or the residents; ~~or~~ ~~(4-11-06)~~(7-1-11)T

m. Any condition exists in the home which endangers the health or safety of any resident.; ~~or~~ ~~(4-11-06)~~(7-1-11)T

n. The provider fails to pay the recertification fee as specified in Subsection 109.02 of these rules. The recertification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice. (7-1-11)T

COST/BENEFIT ANALYSIS FORM
 Department of Health and Welfare
 Administrative Procedures Section (APS)

Docket Number: 16-0319-1101

Agency Contact: Randy May
Phone: (208) 364-1815

Rules Specialist: Bev Barr
Phone: (208) 334-5736

Date Analysis Completed:

IDAPA Chapter Number and Title: IDAPA 16.03.19, "Certified Family Homes"

Fee Rule Status: **Proposed** **Temporary** **Effective date:** 7/1/11 T

Instructions:

Section 67-5223(3), Idaho Code, adopted by the 2010 Legislature, requires that all proposed rules in which a fee or charge is imposed or increased must include a cost/benefit analysis of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both. This statute change is effective July 1, 2010, and must be completed for fee rules published in the *Idaho Administrative Bulletin* after that date.

Cost/Benefit Analysis For This Rule Change:

Certified Family Home Providers: The licensing fees in Docket 16-0319-1101 for a certified family home will cost each provider \$25 per month.

There is currently 2200 CHF. Total collections for SFY 2012 are anticipated to be \$660,000.

CFH Provider Fees

Number of Certified Family Homes	Monthly Fees for each CFH	Total Collections
2,200	\$25	\$660,000

CFH FEE FOR NEW APPLICATIONS

Estimated New Certified Family Home Applicants	One-Time Fee for Training and On-Site Survey/Inspections	Total Collections
70	\$150	\$10,500

Department: The cost to the Department will be approximately \$599,400. The CFH fees will offset the Department's cost and the remainder of these collections will be used for indirect service costs.

Departments Cost

Personnel Expenditures	Operating Expenditures	Total Annual Expenditures
\$587,100	\$12,300	\$599,400