

Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

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

IDAPA 16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind & Disabled (AABD)
(Docket No. 16-0305-1301);

IDAPA 16.03.06 - Rules Pertaining To Refugee Medical Assistance (Docket No. 16-0306-1301).

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 10/31/2013. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/02/2013.

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 on the
memorandum attached below.



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: Senior Legislative Research Analyst - Ryan Bush
DATE: October 11, 2013
SUBJECT: Department of Health and Welfare

IDAPA 16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind & Disabled (AABD) (Docket No. 16-0305-1301)

IDAPA 16.03.06 - Rules Pertaining To Refugee Medical Assistance (Docket No. 16-0306-1301)

(1) 16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind & Disabled (AABD) (Docket No. 16-0305-1301)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD). The Department states that this rulemaking makes changes to eligibility criteria for medical assistance rules in order to comply with federal law. The Department further states that this rulemaking accomplishes the following:

- (1) Simplifies verification requirements for proof of citizenship and lawful alien status;
- (2) Updates residency requirements to reflect federal law;
- (3) Removes requirements around child support that do not meet federal requirements while retaining polices to cooperate with obtaining medical support; and
- (4) Provides updates regarding AABD cash to reflect prior changes.

The Department states that negotiated rulemaking was not conducted because these changes are being made to comply with federal law. There is no fiscal impact associated with this rulemaking.

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

(2) 16.03.06 - Rules Pertaining To Refugee Medical Assistance (Docket No. 16-0306-1301)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.06 - Rules Pertaining To Refugee Medical Assistance. The Department states that this rulemaking revises definitions and makes changes to eligibility determination in order to comply with federal law. Specifically, this rule eliminates consideration of an applicant's resources in determining eligibility and uses only income.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The Department states that negotiated rulemaking was not conducted because these changes are being made to comply with federal law. There is no fiscal impact associated with this rulemaking.

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

cc: Department of Health and Welfare
Tamara Prisock
Shannon Epperley

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND, AND DISABLED (AABD)**

DOCKET NO. 16-0305-1301

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 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code; and 42 CFR, 45 CFR, and 26 USC Part 36B.

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 16, 2013.

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:

This rulemaking is being initiated because of changes in federal laws that must be implemented by January 1, 2014. These rules are being aligned with changes in the eligibility criteria for medical assistance rules and with federal law.

These changes simplify and streamline verification requirements for proof of citizenship and lawful alien status. Residency requirements are being updated to reflect federal law, requirements around child support that do not meet federal requirements are being removed while retaining policies to cooperate with obtaining medical support. Updates are being made to reflect the end of "Aid to Families with Dependent Children" (AFDC), and prior changes to AABD cash.

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

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

The fiscal impact for this rulemaking is anticipated to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because federal laws require the Department to make changes to these rules and have them in place by January 1, 2014, in order to be in compliance with that law. The changes required by federal law are non-negotiable.

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 Shannon Epperley at (208) 334-5969.

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 23, 2013.

DATED this 29th day of August, 2013.

Tamara Prisock, DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036

phone: (208) 334-5500
fax: (208) 334-6558
email: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0305-1301

005. DEFINITIONS.

~~These definitions~~ For purposes of this chapter, the following terms apply ~~to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)";~~ (7-1-99)()

01. AABD Cash. An EBT payment to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments. AABD Cash is a payment of a supplemental cash amount to an individual who meets the program requirements. This payment may be made through direct deposit or an electronic benefits card. (5-3-03)()

02. Applicant. A person applying for public assistance from the Department, ~~and whose application is not fully processed~~ including individuals referred to the Department from a health insurance exchange or marketplace. (7-1-99)()

03. Annuity. A right to receive periodic payments, either for life, a term of years, or other interval of time, whether or not the initial payment or investment has been annuitized. It includes contracts for single payments where the single payment represents an initial payment or investment together with increases or deductions for interest or fees rather than an actuarially-based payment from an insurance pool. (3-30-07)

04. Asset. Includes all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to, but does not receive because of action by: (3-30-07)

a. The individual or such individual's spouse; (3-30-07)

b. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or (3-30-07)

c. A person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse. (3-30-07)

05. Asset Transfer for Sole Benefit. An asset transfer is considered to be for the sole benefit of a spouse, blind or disabled child, or disabled individual if the transfer is arranged in such a way that no individual or entity except the spouse, blind or disabled child, or disabled individual can benefit from the assets transferred in any way, whether at the time of transfer or at any time in the future. (5-3-03)

06. Child. ~~A child is under age eighteen (18), or under twenty one (21) and attending school, college, university, or vocational or technical training designed to prepare him for gainful employment. A child is not married. A child is not the head of a household.~~ Any individual from birth through the end of the month of his nineteenth birthday. (7-1-99)()

07. Citizen. A person having status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. ()

~~078.~~ **Department.** The Department of Health and Welfare. (7-1-99)

~~089.~~ **Direct Deposit.** The electronic deposit of a participant's AABD cash to the participant's personal account with a financial institution. (7-1-99)

~~0910.~~ **Electronic Benefits Transfer (EBT).** A method of issuing AABD cash to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments for a participant. EBT rules are in IDAPA 16.03.20, "Rules Governing Electronic Payments of Public Assistance, Food Stamps and Child Support." (7-1-99)

101. Essential Person. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person provides the services a participant needs to live at home. (5-3-03)

112. Fair Market Value. The fair market value of an asset is the price for which the asset can be reasonably expected to sell on the open market, in the geographic area involved. (5-3-03)

123. Long-Term Care. Long-term care services are services provided to an institutionalized individual as defined in 42 U.S.C. 1396p(c)(1)(C). (3-30-07)

134. Medicaid. ~~The Federally funded program for medical care~~ Idaho's Medical Assistance Program administered by the Department and funded with federal and state funds according to (Title XIX, Social Security Act) that provides medical care for eligible individuals. (~~5-3-03~~)()

145. Medical Assistance Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Medicaid Basic Plan Benefits," ~~and~~ IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (~~3-30-07~~)()

156. Medicaid for Families With Children Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (7-1-99)

167. Needy. A person is considered needy for AABD cash payments if the person meets the nonfinancial requirements of Title XVI of the Social Security Act and the criteria in Section 514 of these rules. (4-7-11)

18. Non-Citizen. Same as "alien" defined in Section 101(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(3)), and includes any individual who is not a citizen or national of the United States. ()

179. Participant. An individual ~~applying for or receiving assistance~~ who is eligible for, and enrolled in, Medicaid or other Health Care Assistance Program. (~~7-1-99~~)()

1820. Partnership Policy. A partnership policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986, which meets the requirements of the long-term care insurance model regulation and long-term care insurance model act promulgated by the National Association of Insurance Commissioners (NAIC), as incorporated in 42 USC 1396p(b)(5)(A). (4-2-08)

21. Premium. A regular, periodic charge or payment for health coverage. ()

22. Reasonable Opportunity Period. A period of time allowed for an individual to provide requested proof of citizenship or identity. A reasonable opportunity period extends for ninety (90) days beginning on the 5th day after the notice requesting the proof has been mailed to the applicant. This period may be extended if the Department determines that the individual is making a "good faith" effort to obtain necessary documentation. ()

1923. Pension Funds. Pension funds are retirement funds held in individual retirement accounts (IRAs), as described by the Internal Revenue Code, or in work-related pension plans, including plans for self-employed individuals sometimes referred to as Keogh plans. (4-2-08)

204. Sole Beneficiary. The only beneficiary of a trust, including a beneficiary during the grantor's life, a beneficiary with a future interest, and a beneficiary by the grantor's will. (7-1-99)

215. TAFI Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho." (7-1-99)

226. Title XVI. Title XVI of the Social Security Act, known as "Grants to States for Aid to the Aged, Blind, or Disabled," is a program for financial assistance to needy individuals who are sixty-five (65) years of age or over, are blind, or are eighteen (18) years of age or over and permanently and totally disabled. (4-7-11)

237. **Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. ~~This program pays for medical assistance for certain individuals and families with low income and limited resources.~~ (3-30-07)()

248. **Title XXI.** Title XXI of the Social Security Act, known as the *State* Children's Health Insurance Program (SCHIP); ~~This is a program that primarily pays for medical assistance for~~ federal and state partnership that provides health insurance to targeted, low-income children. (3-30-07)()

259. **Treasury Rate.** The five (5) year security note rate listed in the "Daily Treasury Yield Curve Rate" by the U.S. Treasury on January 1 of each year. The January 1 rate is used for the entire calendar year. (4-2-08)

2630. **Working Day.** A calendar day when regular office hours are observed by the state of Idaho. Weekends and state holidays are not considered working days. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

072. REQUIRED VERIFICATION.

Applicants must prove their eligibility for aid. The participant is allowed ten (10) calendar days to provide requested proof. The application is denied if the applicant does not provide proof in ten (10) calendar days of the written request and does not have good cause for not providing proof. The Department may also use electronic verification sources when they are available. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

092. CONCURRENT BENEFIT PROHIBITION.

If a person is potentially eligible for *either* AABD cash, TAFI, or foster care, only one (1) program may be chosen. (7-1-99)()

093. -- 099. (RESERVED)

100. RESIDENCY.

The participant must be *voluntarily* living in Idaho and have no immediate intention of leaving. For Medicaid, other persons are Idaho residents if they meet a criteria in Subsections 100.01 through 100.05 of this rule. (7-1-99)()

01. Foster Child. A participant living in Idaho and receiving child foster care payments from another state. (7-1-99)

02. Incapable Participant. A participant ~~in an Idaho institution~~, who *became is* incapable of indicating his state of residency after age twenty-one (21). ~~The participant is a resident of the state where is considered a resident of Idaho when:~~ ()

a. ~~His~~ parent or guardian lives ~~in Idaho; or~~ ()

b. ~~A participant~~ He resides in an Idaho institution, ~~who became incapable of indicating his state of residency after age twenty-one (21), is a resident of Idaho.~~ (7-1-99)()

03. Placed in Another State by Idaho. A participant placed by the state of Idaho in an institution in another state. (7-1-99)

04. Homeless. A participant not maintaining a permanent home or having a fixed address who intends to remain in Idaho. (7-1-99)

05. **Migrant.** A migrant working and living in Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

102. ~~(RESERVED)~~ U.S. CITIZENSHIP VERIFICATION REQUIREMENTS.

Any individual who participates in AABD cash, Health Care Assistance, or Medicaid benefits must provide proof of U.S. citizenship unless he has otherwise met the requirements under Subsection 104.06 of these rules. ()

01. Citizenship Verified. Citizenship must be verified by electronic means when available. If an electronic verification is not immediately obtainable, the Department may request documentation from the applicant. The Department will not deny the application until the applicant has had a reasonable opportunity period to obtain and provide the necessary proof of U.S. citizenship. ()

02. Benefits During Reasonable Opportunity Period. Benefits are provided during the reasonable opportunity period that is provided to allow the applicant time to obtain and provide documentation to verify U.S. citizenship. No overpayment will exist for the reasonable opportunity period if the applicant does not provide necessary documentation during the reasonable opportunity period so that the application results in denial. ()

03. Electronic Verification. Electronic interfaces initiated by the Department with agencies that maintain citizenship and identity information are the primary sources of verification of U.S. Citizenship and Identity. ()

04. Documents. When verification is not available through an electronic interface, the individual must provide the Department with the most reliable document that is available. Documents can be: ()

- a. Originals;** ()
- b. Photocopies;** ()
- c. Facsimiles;** ()
- d. Scanned; or** ()
- e. Other type of copy of a document.** ()

05. Accepted Documentation. Other forms of documentation are accepted to the same extent as an original document, unless information on the submitted document is: ()

- a. Inconsistent with other information available to the Department; or** ()
- b. The Department has good cause to question the validity of the document or the information on it.** ()

06. Submission of Documents. The Department accepts documents that are submitted: ()

- a. In person;** ()
- b. By mail or parcel service;** ()
- c. Through an electronic submission; or** ()
- d. Through a guardian or authorized representative.** ()

103. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

01. SSN Required. The applicant must provide his social security number (SSN), or proof he has applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. ()

a. The SSN must be verified by the Social Security Administration (SSA) electronically. An applicant with an unverified SSN is not eligible for AABD cash, Health Care Assistance, or Medicaid benefits. ()

b. The Department must notify the applicant in writing if eligibility is denied or lost for failure to meet the SSN requirement. (3-20-04)()

02. Application for SSN. To be eligible, the applicant must apply for an SSN, or a duplicate SSN when he cannot provide his SSN to the Department. If the SSN has been applied for but not issued by the SSA, the Department cannot deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-20-04)

023. Failure to Apply for SSN. The applicant may be granted a good cause exception for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: (3-20-04)

a. Is a member of a recognized religious sect or division of the sect; and (3-20-04)

b. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number. (3-20-04)

034. SSN Requirement Waived. An applicant may have the SSN requirement waived when he is: (3-20-04)

a. Only eligible for emergency medical services as described in Section 801 of these rules; or (3-20-04)

b. A newborn child deemed eligible as described in Section 800 of these rules. (4-2-08)

104. U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.

To be eligible for AABD cash and Medicaid, an individual must provide ~~documentation~~ proof of U.S. citizenship and identity unless he has otherwise met the requirements under Subsection 104.096 of this rule. The individual must provide the Department with the most reliable document that is available. ~~Documents must be originals or copies certified by the issuing agency. Copies of originals or notarized copies cannot be accepted.~~ The Department will accept original documents ~~in person, by mail, or through a guardian or authorized representative~~ as described in Section 102 of these rules. (3-29-10)()

01. Documents Accepted as ~~Primary Level~~ Proof of Both U.S. Citizenship and Identity. The following documents are accepted as ~~the primary level of~~ proof of both U.S. citizenship and identity: (3-30-07)()

a. A U.S. passport, including a U.S. Passport card, without regard to expiration date as long as the passport or passport card was issued without limitation; (3-30-07)()

b. A Certificate of Naturalization, ~~DHS Forms N-550 or N-570;~~ or (3-30-07)()

c. A Certificate of U.S. Citizenship, ~~DHS Forms N-560 or N-561.~~ (3-30-07)()

d. ~~A d~~ Documentary evidence issued by a federally recognized Indian tribe ~~evidencing membership, enrollment in, or affiliation with such tribe.~~ Such documents include: (3-29-10)()

i. A tribal enrollment card; ()

ii. A certificate of Degree of Indian Blood; ()

iii. A tribal census document; or ()

iv. Documents on tribal letterhead, issued under the signature of the appropriate tribal official. ()

02. Documents Accepted as ~~Secondary Level Proof~~ Evidence of U.S. Citizenship ~~but Not Identity~~.
The following documents are accepted as proof of U.S. citizenship if the proof in Subsection 104.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 104.0~~53~~ ~~through~~ and 104.0~~74~~ of this rule to establish both citizenship and identity. If the applicant does not have one (1) of the documents listed below, he may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to notarized. ~~(3-29-10)~~()

a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-30-07)

i. United States fifty (50) states; (3-30-07)

ii. District of Columbia; (3-30-07)

iii. Puerto Rico, on or after January 13, 1941; (3-30-07)

iv. Guam, ~~on or after April 10, 1899;~~ ~~(3-30-07)~~()

v. U.S. Virgin Islands, on or after January 17, 1917; (3-30-07)

vi. America Samoa; (3-30-07)

vii. Swain's Island; or (3-30-07)

viii. Northern Mariana Islands, after November 4, 1986; (3-30-07)

b. A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-30-07)

c. A report of birth abroad of a U.S. Citizen, Form FS-240; (3-30-07)

d. A U.S. Citizen I.D. card, DHS Form I-197; (3-30-07)

e. A Northern Mariana Identification Card, ~~Form I-873;~~ ~~(3-30-07)~~()

~~f. An American Indian Card issued by the Department of Homeland Security with the classification code "KIC," Form I-873;~~ ~~(3-30-07)~~

~~gf.~~ A final adoption decree showing the child's name and U.S. place of birth, or if the adoption is not final, a statement from the state-approved adoption agency that shows the child's name and U.S. place of birth; ~~(3-30-07)~~()

~~hg.~~ Evidence of U.S. Civil Service employment before June 1, 1976; (4-2-08)

~~ih.~~ An official U.S. Military record showing a U.S. place of birth; (4-2-08)

~~ji.~~ A certification of birth abroad, FS-545; (4-2-08)

~~kj.~~ A ~~V~~erification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; ~~or~~ ~~(4-2-08)~~()

~~lk.~~ Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship

Act of 2000; (4-2-08)()

~~l. Medical records, including hospital, clinic, or doctor records, or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth; ()~~

~~m. Life, health, or other insurance record that indicates a U.S. place of birth; ()~~

~~n. Official religious record recorded in the U.S. showing that the birth occurred in the U.S; ()~~

~~o. School records, including pre-school, Head Start, and daycare, showing the child's name and U.S. place of birth; or ()~~

~~p. Federal or state census record showing U.S. citizenship or a U.S. place of birth. ()~~

~~03. Documents Accepted as Third Level Proof of U.S. Citizenship but Not Identity. The following documents are accepted as proof of U.S. citizenship if a primary or secondary level of proof is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 104.05 through 104.07 of this rule to establish both citizenship and identity. (3-29-10)~~

~~a. A written hospital record on hospital letterhead established at the time of the person's birth that was created five (5) years before the initial application date that indicates a U.S. place of birth; (4-2-08)~~

~~b. A life, health, or other insurance record that was created at least five (5) years before the initial application date and that indicates a U.S. place of birth; (4-2-08)~~

~~c. A religious record recorded in the U.S. within three (3) months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made. The record must be an official record recorded with the religious organization; or (4-2-08)~~

~~d. An early school record showing a U.S. place of birth. The school record must show the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the names and places of the birth of the child's parents. (4-2-08)~~

~~04. Documents Accepted as Fourth Level Proof of U.S. Citizenship but Not Identity. The following documents are accepted as proof of U.S. citizenship only if documents in Subsections 104.01 through 104.03 of this rule do not exist and cannot be obtained for a person who claims U.S. citizenship. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 104.05 through 104.07 of this rule to establish both citizenship and identity. (3-29-10)~~

~~a. Federal or state census record that shows the individual has U.S. citizenship or a U.S. place of birth; (3-30-07)~~

~~b. One (1) of the following documents that shows a U.S. place of birth and for a participant who is sixteen (16) years of age or older was created at least five (5) years before the application for Medicaid. For a child under sixteen (16) years of age, the document must have been created near the time of birth; (4-2-08)~~

~~i. Bureau of Indian Affairs tribal census records of the Navajo Indians; (3-30-07)~~

~~ii. U.S. State vital Statistics official notification of birth registration; (3-30-07)~~

~~iii. A delayed U.S. public birth record that was recorded more than five (5) years after the person's birth; (4-2-08)~~

~~iv. Statement signed by the physician or midwife who was in attendance at the time of birth; (3-30-07)~~

~~v. Medical (clinic, doctor, or hospital) record; (3-30-07)~~

- ~~vi. Institutional admission papers from a nursing facility, skilled care facility or other institution; (4-2-08)~~
- ~~vii. Bureau of Indian Affairs (BIA) roll of Alaska Natives; or (4-2-08)~~
- ~~e. A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct." A declaration is accepted for proof of U.S. citizenship or naturalization if no other documentation is available and complies with the following: (4-2-08)~~
- ~~i. Declarations must be made by two (2) persons who have personal knowledge of the events establishing the individual's claim of U.S. citizenship; (3-30-07)~~
- ~~ii. One (1) of the persons making a declaration cannot be related to the individual claiming U.S. citizenship; (3-30-07)~~
- ~~and~~
- ~~iii. The persons making the declaration must provide proof of their own U.S. citizenship and identity; (3-30-07)~~
- ~~iv. A declaration must be obtained from the individual applying for Medicaid, a guardian, or representative that explains why the documentation does not exist or cannot be obtained. (3-30-07)~~
- 053. Documents Accepted for Proof Evidence of Identity but Not Citizenship.** The following documents are accepted as proof of identity, provided the document has a photograph or other identifying information including: name, age, sex, race, height, weight, eye color, or address. ~~They are not proof of citizenship and must be used in combination with at least one (1) document listed in Subsection 104.02 through 104.04 of this rule to establish both citizenship and identity. (3-29-10)()~~
- ~~a. A state- or territory-issued driver's license, bearing the individual's picture or other identifying information such as name, age, gender, race, height, weight, or eye color. A driver's license issued by a Canadian government authority is not a valid indicator of identity in the U. S.; (3-30-07)()~~
- ~~b. A federal, state, or local government-issued identity card with the same identifying information that is included on driver's licenses as described in Subsection 104.05.a. of this rule; (3-29-10)()~~
- ~~c. School identification card with a photograph of the individual; (3-30-07)()~~
- ~~d. U.S. Military card or draft record; (3-30-07)~~
- ~~e. Military dependent's identification card; (3-30-07)~~
- ~~f. U. S. Coast guard Merchant Mariner card; (3-30-07)~~
- ~~g. A cross-match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system; or (4-2-08)()~~
- ~~h. A declaration signed under the penalty of perjury by the facility director or administrator of a residential care facility where a disabled participant resides may be accepted as proof of identity when the individual does not have or cannot get any document in Subsections 104.05.a. through 104.05.i. of this rule. (3-29-10)~~
- h. A finding of identity from a federal or state governmental agency, when the agency has verified and certified the identity of the individual, including public assistance, law enforcement, internal revenue or tax bureau, or corrections agency; ()
- i. A finding of identity from another state benefits agency or program provided that it obtained verification of identity as a criterion of participation; ()
- j. Verification of citizenship by a federal agency or another state. If the Department finds that a

federal agency or an agency in another state verified citizenship on or after July 1, 2006, no further documentation of citizenship or identity is required; ()

k. Two (2) documents containing consistent information that corroborates the applicant's identity including: employer identification cards, high school or high school equivalency diplomas, college diplomas, marriage certificates, divorce decrees, property deeds or titles; or ()

l. When the applicant does not have any documentation as specified in Subsections 104.03.a. through k. of this rule, the applicant may submit an affidavit signed by another individual under penalty of perjury, who can reasonably attest to the applicant's identity. The affidavit must contain the applicant's name and other identifying information to establish identity stated in Subsection 104.03 of this rule. The affidavit does not have to be notarized. ()

~~06. Additional Documents Accepted for Proof of Identity. If the participant provides citizenship documentation as described in Subsections 104.02 or 104.03 of this rule, three (3) or more corroborating documents may be used to prove identity. (3-29-10)~~

~~074. Identity Rules for Children. The following documentation of identity f~~For children under ~~sixteen age nineteen (169), clinic, doctor, or hospital records, including pre-school or daycare records,~~ may be used: ~~as additional sources of documentation of identity. (3-30-07)()~~

~~a. School records may be used to establish identity. Such records also include nursery or daycare records. (3-30-07)~~

~~b. Clinic, doctor, or hospital records. (4-2-08)~~

~~c. A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct," if documents listed in Subsection 104.02 of this rule are not available. A declaration may be used if it meets the following conditions: (3-29-10)~~

~~i. It states the date and place of the child's birth; and (3-30-07)~~

~~ii. It is signed by a parent or guardian. (3-30-07)~~

~~d. A declaration can be used for a child up to the age of eighteen (18) when documents listed in Subsection 104.05.a. through 104.05.e. of this rule are not available. (3-29-10)~~

~~e. A declaration cannot be used for identity if a declaration for citizenship documentation was provided for the child. (3-30-07)~~

~~085. Eligibility for Medicaid **Participants Applicants** Who Do Not Provide **U.S. Citizenship and Identity Documentation.** ~~Medicaid participants have~~ If verification of U.S. citizenship and identity is not obtained through electronic means, or if the applicant is unable to provide documentation at the time of application, the applicant has ninety (90) days to provide proof of U.S. citizenship and identity ~~documentation.~~ The ninety (90) days begins five (5) days after the date the notice is mailed requesting the documentation of citizenship and identity. Medicaid benefits will be approved pending verification if the ~~participant applicant~~ meets all other eligibility requirements. Medicaid will be denied if the ~~participant applicant~~ refuses to obtain documentation. (4-7-11)()~~

~~096. Individuals Considered as Meeting the U.S. Citizenship and Identity Documentation Requirements.~~ The following individuals are considered to have met the U.S. citizenship and identity documentation requirements, regardless of whether documentation required in Subsections 104.01 through 104.085 of this rule is provided: (3-29-10)()

~~a. Supplemental Security Income (SSI) recipients; (4-2-08)~~

~~b. Individuals determined by the SSA to be entitled to or ~~are receiving~~ enrolled in any part of Medicare; (4-2-08)()~~

- c. Social Security Disability Income (SSDI) recipients; (4-7-11)
- d. Adoptive or foster care children receiving assistance under Title IV-B or Title IV-E of the Social Security Act; (4-7-11)
- e. Individuals deemed eligible for Medicaid as a newborn under Section 800 of these rules; and (4-7-11)
- f. Individuals whose name and social security number are validated by the Social Security Administration data match as meeting U.S. citizenship status. (4-7-11)

407. **Assistance in Obtaining Documentation.** The Department will provide assistance to individuals who ~~are mentally or physically incapacitated and who lack a representative to assist them in obtaining such documentation~~ need assistance in securing satisfactory documentary evidence of citizenship. (3-30-07)()

408. **Provide Documentation Verification of U.S. Citizenship and Identity One Time.** When an individual ~~s has provided U.S. citizenship and identity documents~~ have been verified, whether through electronic data matches or provision of documentation, changes in eligibility will not require an individual to provide ~~such documentation~~ the verification again, ~~unless~~ If later verification ~~of the documents~~ provided ~~s the Department with good cause to raise a question of the validity of the individual's citizenship or identity,~~ the individual may be requested to provide further verification. (3-30-07)()

105. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.

To be eligible for AABD cash and Medicaid, an individual must be a member of one (1) of the groups listed in Subsections 105.01 through 105.176 of this rule. An individual must also provide proof of identity as provided in Section 104 of these rules. (3-29-10)()

01. **U.S. Citizen.** A U.S. Citizen or a "national of the United States." (3-30-07)()

~~02. U.S. National, National of American Samoa or Swain's Island. A U. S. National, National of American Samoa or Swain's Island.~~ (3-30-07)

032. **Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)

- a. At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-30-07)
- b. The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)
- c. The child is under eighteen (18) years of age; (3-30-07)
- d. The child is a lawful permanent resident; and (3-30-07)
- e. If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)

043. **Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-30-07)

054. **Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-30-07)

065. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) and remained continuously present in the U.S. until they became a qualified alien. (3-30-07)

076. Non-Citizen Entering on or After August 22, 1996. A non-citizen who entered on or after August 22, 1996, and; (3-30-07)

a. Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)

b. Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)

c. Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)

d. Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; (4-7-11)

e. Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; (4-7-11)

f. Is an Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007; or (4-7-11)

g. Is an Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (4-7-11)

087. Qualified Non-Citizen Entering on or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-30-07)

098. American Indian Born in Canada. An American Indian born in Canada under 8 U.S.C. 1359. (3-30-07)

109. American Indian Born Outside the U.S. An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-30-07)

110. Qualified Non-Citizen Child Receiving Federal Foster Care. A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-30-07)

121. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

a. Is under the age of eighteen (18) years; or (3-20-04)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-30-07)

132. Qualified Non-Citizen Receiving Supplement Security Income (SSI). A qualified non-citizen under 8 U.S.C. 1641(b) or (c), and is receiving SSI; or (3-20-04)

143. Permanent Resident Receiving AABD Cash On August 22, 1996. A permanent resident receiving AABD cash on August 22, 1996. (3-20-04)

14. Employment Authorized Alien. An alien granted an employment authorization document (EAD), as defined in 8 CFR Part 274a.12(c). ()

15. Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements. An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 105.01 through 105.14 of this rule, may be eligible for emergency medical services if ~~they~~ he meets all other conditions of eligibility. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

502. SPECIAL NEEDS ALLOWANCES.

Special needs allowances are a restaurant meals allowance and a service animal food allowance. (4-11-06)

01. Restaurant Meals. The restaurant meals allowance is fifty dollars (\$50) monthly. A physician must state the participant is physically unable to prepare food in his home. A participant able to prepare his food, but living in a place where cooking is not permitted, may be budgeted the restaurant meals allowance for up to three (3) months. (7-1-99)

02. Service Animal Food. The service animal food allowance is seventeen dollars (\$17) monthly. The allowance is budgeted for a blind or disabled participant, using a trained service animal ~~trained by a recognized school~~. (4-11-06)()

(BREAK IN CONTINUITY OF SECTIONS)

515. RESIDENTIAL AND ASSISTED LIVING FACILITY CARE AND CERTIFIED FAMILY HOME ASSESSMENT AND LEVEL OF CARE.

The participant's need for care, level of care, plan of care, and the licensed facility's ability to provide care is assessed by the ~~Regional Medicaid Services (RMS)~~ Bureau of Long-Term Care Services (BLTCS) when a participant is admitted. The ~~RMS~~ BLTCS must approve the placement before Medicaid can be approved. (4-7-11)()

516. CHANGE IN LEVEL OF CARE.

A change in the participant's level of care affects eligibility as described in Subsections 516.01 and 516.02 of this rule. (4-7-11)

01. Increase in Level of Care. An increase in level of care is effective the month the ~~RMS~~ BLTCS reassesses the level of care. (5-3-03)()

02. Decrease in Level of Care. When the ~~RMS~~ BLTCS verifies the participant has a decrease in his level of care, and his income exceeds his new level of care, his Medicaid must be stopped after timely notice. When the RMS determines the participant no longer meets any level of care, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

618. CONTINUED BENEFITS PENDING A HEARING DECISION.

The participant may continue to receive benefits upon request, pending the hearing decision. The Department must receive the participant's request for continued benefits before the effective date of the Department's action stated in the notice of decision. An applicant cannot receive continued benefits when appealing a denial for failure to provide citizenship and identity verification after the expiration of a reasonable opportunity period. (4-2-08)()

01. Amount of Assistance. The Department will continue the participant's assistance at the current month's level while the hearing decision is pending, unless another change affecting assistance occurs. (3-15-02)

02. Continued Eligibility. The participant must continue to meet all eligibility requirements not related to the hearing issue. (3-15-02)

03. Overpayment. When the hearing decision is in the Department's favor, the participant must repay assistance received while the hearing decision was pending. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

621. COLLECTING ~~UNDERPAID~~ PATIENT LIABILITY.

An overpayment ~~due to or underpaid~~ payment in patient liability ~~or client participation~~ is collected ~~by withholding funds from the nursing home or HCBS provider. Adjust the underpaid patient liability or client participation adjusted retroactively for each underpaid month. Funds are not withheld if~~ from or paid directly to the participant ~~repays the Department.~~ (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

701. MEDICAID APPLICATION.

An adult participant, a legal guardian or a representative of the participant must sign the application ~~form~~. The participant must submit the application form to the Department. A Medicaid application may be made for a deceased person. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

703. CHILD SUPPORT COOPERATION.

The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child medical support order, to be eligible for Medicaid. ~~After CSS establishes a case, the participant must forward all support payments to CSS for distribution.~~ This includes support payments received directly from the noncustodial parent. The cooperation requirement is waived for poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support ~~and payments~~ from, or derived from, the father of a child born out of wedlock. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.

For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through

723.03 of this rule. (5-3-03)

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03 of this rule. (5-3-03)

02. Community Property Income of Long-Term Care Participant with Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (7-1-99)

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03 subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (3-15-02)

a. AABD Income Exclusions. Subtract income excluded in determining eligibility for AABD cash. (7-1-99)

b. Aid and Attendance and UME Allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home. (3-30-01)

c. SSI Payment Two (2) Months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (7-1-99)

d. AABD Payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (7-1-99)

e. First Ninety (\$90) Dollars of VA Pension. Subtract the first ninety (\$90) dollars of a VA pension for a veteran in a private long-term care facility or a State Veterans Nursing Home. (5-3-03)

f. Personal Needs. Subtract forty dollars (\$40) for the participant's personal needs. For a veteran or surviving spouse in a private long-term care facility or a State Veterans Nursing Home the first ninety (\$90) dollars of VA pension substitutes for the forty dollar (\$40) personal needs deduction. (5-3-03)

g. Employed and Sheltered Workshop Activity Personal Needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of two hundred dollars (\$200) or his gross earned income. The participant's total personal needs allowance must not exceed two hundred and thirty dollars (\$230). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed two hundred dollars (\$200). This is a deduction only. No actual payment can be made to provide for personal needs. (3-30-01)

h. Home Maintenance. Subtract two hundred and twelve dollars (\$212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (7-1-99)

i. Maintenance Need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (7-1-99)

j. Medicare and Health Insurance Premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (7-1-99)

k. Mandatory Income Taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (7-1-99)

l. Guardian Fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars (\$25). Where the guardian and trustee ~~are~~ is the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars (\$25) monthly. (7-1-99)()

m. Trust Fees. Subtract up to twenty-five dollars (\$25) monthly paid to the trustee for administering the participant's trust. (7-1-99)

n. Impairment Related Work Expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services; that are purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (7-1-99)()

o. Income Garnished for Child Support. Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the maintenance need standard. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

800. NEWBORN CHILD OF MEDICAID MOTHER.

A child is deemed eligible for Medicaid without an application if born to a woman receiving Medicaid on the date of the child's birth, including during a period of retroactive eligibility for the mother. The child remains eligible for Medicaid for up to one (1) year without an application. An application for Medicaid must be filed on behalf of the child no later than his first birthday. He must qualify for Medicaid in his own right after the month of his first birthday. (3-29-10)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.06 - REFUGEE MEDICAL ASSISTANCE

DOCKET NO. 16-0306-1301

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, and 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code; and 42 CFR, 45 CFR, and 26 USC Part 36B.

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 16, 2013.

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:

This rulemaking is being done because of changes in federal laws that must be implemented by January 1, 2014. The proposed amendments to these rules are required for compliance with federal laws. Changes are being made to definitions and for eligibility determination.

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

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

The fiscal impact for this rulemaking is anticipated to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because federal laws require the Department to make changes to these rules and have them in place by January 1, 2014, in order to be in compliance with that law. The changes required by federal law makes these rules non-negotiable.

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 Shannon Epperley at (208) 334-5969.

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 23, 2013.

DATED this 29th day of August, 2013.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500; fax: (208) 334-6558
email: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET 16-0306-1301

010. DEFINITION OF TERMS AND ABBREVIATIONS.

For the purposes of these rules, the following terms and abbreviations ~~are used as defined below~~ apply: (4-2-08)()

~~01.~~ **AFDC.** *Aid to Families with Dependent Children. AFDC is the family assistance program in effect on June 30, 1997. It was replaced by Temporary Assistance for Families in Idaho (TAFI).* (4-2-08)

021. Caretaker. A person related by blood or marriage who holds legal responsibility for the care and support of a minor child or otherwise dependent individual and who is needed in the home to care for such dependent. (4-2-08)

~~032.~~ **Department.** The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (4-2-08)

043. Eligible Amerasian. A citizen of Vietnam born between January 1, 1962, and January 1, 1976, who has one (1) American parent. (4-2-08)

~~054.~~ **Entrant.** A person from Cuba or Haiti who has been granted special immigration status by USCIS. (4-2-08)

~~065.~~ **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS). (4-2-08)

~~076.~~ **HHS.** United States Department of Health and Human Services. (4-2-08)

~~087.~~ **INA.** Immigration and Nationality Act, 8 USC Sections 1101-1537. (4-2-08)

~~098.~~ **IRSP.** Idaho Refugee Service Program. (4-2-08)

~~109.~~ **I-94.** A white three by five (3x5) inch alien identification card issued to refugees prior to their release to a sponsor. This card gives the refugee's name, United States address, and other identifying data. The refugee status will be printed in the lower right hand corner. If a refugee does not have this card, he should be referred to USCIS to obtain one. The dependent of a repatriated United States citizen may also have an I-94 card. (4-2-08)

~~110.~~ **Medical Assistance Program.** Services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (4-2-08)

~~121.~~ **Refugee.** An alien who: (4-2-08)

a. Because of persecution or fear of persecution on account of race, religion, or political opinion fled from his homeland; and (4-2-08)

b. Cannot return there because of fear of persecution on account of race, religion or political opinion. (4-2-08)

~~132.~~ **State Children's Health Insurance Program (SCHIP).** SCHIP is Title XXI of the Social Security Act. It is a federal and state partnership similar to Medicaid, that expands health insurance to targeted, low- income children. (4-2-08)()

~~143.~~ **TAFI.** Temporary Assistance for Families in Idaho. TAFI is Idaho's family assistance program whose purpose is to provide temporary cash assistance for Idaho families who meet the eligibility requirements under IDAPA 16.03.08, "Rules Governing the Temporary Assistance for Families in Idaho (TAFI)" program. ~~TAFI replaced~~

~~the Aid to Families With Dependent Children (AFDC) program.~~

~~(4-2-08)()~~

14. Third Party. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. ()

15. USCIS. United States Citizenship and Immigration Services, ~~formerly known as Immigration and Naturalization Services (INS).~~ (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

135. PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS.

01. New Applicants. An applicant for medical assistance must first have his eligibility determined for Medicaid or SCHIP. To be eligible for Medicaid or SCHIP, the refugee must meet all the eligibility criteria for the applicable category of assistance. If the applicant is determined ineligible for Medicaid or SCHIP, then the Department will determine his eligibility for the Refugee Medical Assistance Program. (4-2-08)()

02. Transfer of Cases. At the end of the eight (8) month time limit for Refugee Medical Assistance, a refugee who is determined Medicaid-eligible in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children" or IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," will be transitioned to Medicaid without the need to submit an additional application. (4-2-08)

136. -- 149. (RESERVED)

150. REFUGEE MEDICAL ASSISTANCE PROGRAM.

01. Time Limitation. Medical assistance under the Refugee Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for a child born in the United States to parents receiving Refugee Medical Assistance expires when both of his parents with whom he is living are no longer eligible. (4-2-08)

02. Medical Only. A refugee is not required to apply for or receive Cash Assistance as a condition of eligibility for Refugee Medical Assistance. Denial or closure of Refugee Cash Assistance is not a reason to deny or close Refugee Medical Assistance. (4-2-08)

03. Refugee Cash Assistance Excluded. Refugee Cash Assistance is excluded from income ~~and resources~~ when determining eligibility for Refugee Medical Assistance. (4-2-08)()

04. Automatic Eligibility. Refugees whose countable income does not exceed one hundred fifty percent (150%) of the Federal Poverty Guidelines are automatically eligible for Refugee Medical Assistance. (4-2-08)

05. Refugee Medical Assistance with "Spend Down." An applicant for Refugee Medical Assistance whose countable income exceeds one hundred fifty percent (150%) FPG for his family size may become eligible for Refugee Medical Assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds one hundred fifty percent (150%) FPG for his family size to subtract his medical costs from his income and thus "spend down" to the FPG limit for his family size. This "spend down" will be determined on a quarterly basis; the quarter begins with the month of application. The amount by which the refugee's income exceeds one hundred fifty percent (150%) FPG for his family size on a monthly basis is determined by:

- a. Using the best estimate of income to be received during the quarter; and (4-2-08)

- b. Multiplying the monthly excess by three (3) to determine the quarterly “spend down.” (4-2-08)
- 06. Counting Income ~~and Resources~~ for Refugee Medical Assistance with a “Spend Down.”** (4-2-08)()
- a. Income ~~and resources are~~ is counted or excluded in accordance with IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.” The sole exception is that Refugee Cash Assistance is excluded from income ~~and resources~~ when determining eligibility for Refugee Medical Assistance. (4-2-08)()
- b. The Federal Poverty Guideline applicable for the size of the family determines the amount to which an individual or family must “spend down” to be eligible for Refugee Medical Assistance. (4-2-08)
- ~~e. Total countable resources for the family must not exceed one thousand dollars (\$1,000). (4-2-08)~~
- ~~d. Financial resources that are not available to the refugee, including resources remaining in his homeland, can not be considered in determining eligibility for Refugee Medical Assistance. (4-2-08)~~
- ~~ec.~~ The income ~~and resources~~ of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for Refugee Medical Assistance. A shelter allowance must not be given for any in-kind shelter provided. (4-2-08)()
- 07. Financially Responsible Relatives.** (4-2-08)
- a. The Department must consider the income ~~and resources~~ of nonrefugee spouses or parents as available to the refugee whether or not they are actually contributed, if they live in the same household. (4-2-08)()
- b. If the nonrefugee spouse or parent does not live with the individual, the Department must consider income ~~and resources~~ that are actually contributed by the spouse or parent as available to the refugee. (4-2-08)()
- 08. Deduction of Incurred Medical Expenses.** If countable income exceeds one hundred fifty percent (150%) of the Federal Poverty Guidelines for the family size, the Department must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party: (4-2-08)
- a. Medicare premiums, other health insurance premiums, deductibles, or coinsurance charges incurred by the individual, family, or financially responsible relatives. (4-2-08)
- b. Expenses incurred by the individual, family, or financially responsible relatives for necessary medical and remedial services not covered under the scope of the Medical Assistance Program. (4-2-08)
- c. Expenses incurred by the individual, family, or financially responsible relatives for necessary medical and remedial services covered in the scope of the Medical Assistance Program. (4-2-08)
- d. On a case by case basis, the Department may set reasonable limits on expenses to be deducted from income under Subsections 150.08.a. and 150.08.b. of this rule. (4-2-08)
- 09. Determining Eligibility for Refugee Medical Assistance for Refugees Who Must Meet a “Spend Down.”** The refugee applicant must provide verification of expenses incurred pursuant to Subsection 150.08 of this rule. If the applicant has medical coverage from a third party, he must verify that charges will not be paid by this third party by providing an Explanation of Benefits or other written statement from the third party. (4-2-08)
- a. As the applicant submits medical expenses, the charges should be added in the order listed in Subsection 150.08 of this rule. The expenses that come under Subsection 150.08.c. must be put in chronological order by the date of service. (4-2-08)
- b. When the charges equal or exceed the amount of the “spend down,” the applicant becomes eligible for Refugee Medical Assistance. (4-2-08)

c. The date of eligibility is the date of service on the last bill which is covered under the scope of the Medical Assistance Program. (4-2-08)

d. It is the responsibility of the Department caseworker who is determining the applicant's eligibility to determine when the "spend down" has been met. (4-2-08)

10. Issuing a Medical Card to a Refugee Who Must Meet a "Spend Down." A Medical Card will not be issued until the applicant has met the "spend down." The dates on the Medical Card under "Valid Only During" will be the date the applicant becomes eligible for Medicaid benefits "to" the last day of the last month in the quarter for which the "spend down" has been determined. (4-2-08)

11. Continued Coverage. If a refugee who is receiving Refugee Medical Assistance receives earnings from employment, the earnings do not affect the refugee's continued eligibility for Refugee Medical Assistance. Once a refugee begins receiving Refugee Medical Assistance, he continues to receive it through his eighth month in the United States. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

400. INCOME ~~AND RESOURCES~~ ON DATE OF APPLICATION.

Eligibility is determined using income ~~and resources~~ on the date of application. Income is not averaged over the application processing period. (~~4-2-08~~)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.06 - REFUGEE MEDICAL ASSISTANCE

DOCKET NO. 16-0306-1301

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, and 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code; and 42 CFR, 45 CFR, and 26 USC Part 36B.

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 16, 2013.

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:

This rulemaking is being done because of changes in federal laws that must be implemented by January 1, 2014. The proposed amendments to these rules are required for compliance with federal laws. Changes are being made to definitions and for eligibility determination.

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

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

The fiscal impact for this rulemaking is anticipated to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because federal laws require the Department to make changes to these rules and have them in place by January 1, 2014, in order to be in compliance with that law. The changes required by federal law makes these rules non-negotiable.

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 Shannon Epperley at (208) 334-5969.

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 23, 2013.

DATED this 29th day of August, 2013.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500; fax: (208) 334-6558
email: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET 16-0306-1301

010. DEFINITION OF TERMS AND ABBREVIATIONS.

For the purposes of these rules, the following terms and abbreviations ~~are used as defined below~~ apply: (4-2-08)()

~~01. AFDC. Aid to Families with Dependent Children. AFDC is the family assistance program in effect on June 30, 1997. It was replaced by Temporary Assistance for Families in Idaho (TAFI).~~ (4-2-08)

021. Caretaker. A person related by blood or marriage who holds legal responsibility for the care and support of a minor child or otherwise dependent individual and who is needed in the home to care for such dependent. (4-2-08)

~~032. Department.~~ The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (4-2-08)

043. Eligible Amerasian. A citizen of Vietnam born between January 1, 1962, and January 1, 1976, who has one (1) American parent. (4-2-08)

~~054. Entrant.~~ A person from Cuba or Haiti who has been granted special immigration status by USCIS. (4-2-08)

~~065. Federal Poverty Guidelines (FPG).~~ The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS). (4-2-08)

~~076. HHS.~~ United States Department of Health and Human Services. (4-2-08)

~~087. INA.~~ Immigration and Nationality Act, 8 USC Sections 1101-1537. (4-2-08)

~~098. IRSP.~~ Idaho Refugee Service Program. (4-2-08)

~~109. I-94.~~ A white three by five (3x5) inch alien identification card issued to refugees prior to their release to a sponsor. This card gives the refugee's name, United States address, and other identifying data. The refugee status will be printed in the lower right hand corner. If a refugee does not have this card, he should be referred to USCIS to obtain one. The dependent of a repatriated United States citizen may also have an I-94 card. (4-2-08)

~~110. Medical Assistance Program.~~ Services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (4-2-08)

121. Refugee. An alien who: (4-2-08)

a. Because of persecution or fear of persecution on account of race, religion, or political opinion fled from his homeland; and (4-2-08)

b. Cannot return there because of fear of persecution on account of race, religion or political opinion. (4-2-08)

~~132. State Children's Health Insurance Program (SCHIP).~~ SCHIP is Title XXI of the Social Security Act. It is a federal and state partnership similar to Medicaid, that expands health insurance to targeted, low- income children. (4-2-08)()

143. TAFI. Temporary Assistance for Families in Idaho. TAFI is Idaho's family assistance program whose purpose is to provide temporary cash assistance for Idaho families who meet the eligibility requirements under IDAPA 16.03.08, "Rules Governing the Temporary Assistance for Families in Idaho (TAFI)" program. ~~TAFI replaced~~

~~the Aid to Families With Dependent Children (AFDC) program.~~

~~(4-2-08)()~~

14. Third Party. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. ()

15. USCIS. United States Citizenship and Immigration Services, ~~formerly known as Immigration and Naturalization Services (INS).~~ (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

135. PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS.

01. New Applicants. An applicant for medical assistance must first have his eligibility determined for Medicaid or SCHIP. To be eligible for Medicaid or SCHIP, the refugee must meet all the eligibility criteria for the applicable category of assistance. If the applicant is determined ineligible for Medicaid or SCHIP, then the Department will determine his eligibility for the Refugee Medical Assistance Program. (4-2-08)()

02. Transfer of Cases. At the end of the eight (8) month time limit for Refugee Medical Assistance, a refugee who is determined Medicaid-eligible in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children" or IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," will be transitioned to Medicaid without the need to submit an additional application. (4-2-08)

136. -- 149. (RESERVED)

150. REFUGEE MEDICAL ASSISTANCE PROGRAM.

01. Time Limitation. Medical assistance under the Refugee Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for a child born in the United States to parents receiving Refugee Medical Assistance expires when both of his parents with whom he is living are no longer eligible. (4-2-08)

02. Medical Only. A refugee is not required to apply for or receive Cash Assistance as a condition of eligibility for Refugee Medical Assistance. Denial or closure of Refugee Cash Assistance is not a reason to deny or close Refugee Medical Assistance. (4-2-08)

03. Refugee Cash Assistance Excluded. Refugee Cash Assistance is excluded from income ~~and resources~~ when determining eligibility for Refugee Medical Assistance. (4-2-08)()

04. Automatic Eligibility. Refugees whose countable income does not exceed one hundred fifty percent (150%) of the Federal Poverty Guidelines are automatically eligible for Refugee Medical Assistance. (4-2-08)

05. Refugee Medical Assistance with "Spend Down." An applicant for Refugee Medical Assistance whose countable income exceeds one hundred fifty percent (150%) FPG for his family size may become eligible for Refugee Medical Assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds one hundred fifty percent (150%) FPG for his family size to subtract his medical costs from his income and thus "spend down" to the FPG limit for his family size. This "spend down" will be determined on a quarterly basis; the quarter begins with the month of application. The amount by which the refugee's income exceeds one hundred fifty percent (150%) FPG for his family size on a monthly basis is determined by:

- a. Using the best estimate of income to be received during the quarter; and (4-2-08)

- b. Multiplying the monthly excess by three (3) to determine the quarterly “spend down.” (4-2-08)
- 06. Counting Income ~~and Resources~~ for Refugee Medical Assistance with a “Spend Down.”** (4-2-08)()
- a. Income ~~and resources are~~ is counted or excluded in accordance with IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.” The sole exception is that Refugee Cash Assistance is excluded from income ~~and resources~~ when determining eligibility for Refugee Medical Assistance. (4-2-08)()
- b. The Federal Poverty Guideline applicable for the size of the family determines the amount to which an individual or family must “spend down” to be eligible for Refugee Medical Assistance. (4-2-08)
- ~~e. Total countable resources for the family must not exceed one thousand dollars (\$1,000). (4-2-08)~~
- ~~d. Financial resources that are not available to the refugee, including resources remaining in his homeland, can not be considered in determining eligibility for Refugee Medical Assistance. (4-2-08)~~
- ~~ec.~~ The income ~~and resources~~ of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for Refugee Medical Assistance. A shelter allowance must not be given for any in-kind shelter provided. (4-2-08)()
- 07. Financially Responsible Relatives.** (4-2-08)
- a. The Department must consider the income ~~and resources~~ of nonrefugee spouses or parents as available to the refugee whether or not they are actually contributed, if they live in the same household. (4-2-08)()
- b. If the nonrefugee spouse or parent does not live with the individual, the Department must consider income ~~and resources~~ that are actually contributed by the spouse or parent as available to the refugee. (4-2-08)()
- 08. Deduction of Incurred Medical Expenses.** If countable income exceeds one hundred fifty percent (150%) of the Federal Poverty Guidelines for the family size, the Department must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party: (4-2-08)
- a. Medicare premiums, other health insurance premiums, deductibles, or coinsurance charges incurred by the individual, family, or financially responsible relatives. (4-2-08)
- b. Expenses incurred by the individual, family, or financially responsible relatives for necessary medical and remedial services not covered under the scope of the Medical Assistance Program. (4-2-08)
- c. Expenses incurred by the individual, family, or financially responsible relatives for necessary medical and remedial services covered in the scope of the Medical Assistance Program. (4-2-08)
- d. On a case by case basis, the Department may set reasonable limits on expenses to be deducted from income under Subsections 150.08.a. and 150.08.b. of this rule. (4-2-08)
- 09. Determining Eligibility for Refugee Medical Assistance for Refugees Who Must Meet a “Spend Down.”** The refugee applicant must provide verification of expenses incurred pursuant to Subsection 150.08 of this rule. If the applicant has medical coverage from a third party, he must verify that charges will not be paid by this third party by providing an Explanation of Benefits or other written statement from the third party. (4-2-08)
- a. As the applicant submits medical expenses, the charges should be added in the order listed in Subsection 150.08 of this rule. The expenses that come under Subsection 150.08.c. must be put in chronological order by the date of service. (4-2-08)
- b. When the charges equal or exceed the amount of the “spend down,” the applicant becomes eligible for Refugee Medical Assistance. (4-2-08)

c. The date of eligibility is the date of service on the last bill which is covered under the scope of the Medical Assistance Program. (4-2-08)

d. It is the responsibility of the Department caseworker who is determining the applicant's eligibility to determine when the "spend down" has been met. (4-2-08)

10. Issuing a Medical Card to a Refugee Who Must Meet a "Spend Down." A Medical Card will not be issued until the applicant has met the "spend down." The dates on the Medical Card under "Valid Only During" will be the date the applicant becomes eligible for Medicaid benefits "to" the last day of the last month in the quarter for which the "spend down" has been determined. (4-2-08)

11. Continued Coverage. If a refugee who is receiving Refugee Medical Assistance receives earnings from employment, the earnings do not affect the refugee's continued eligibility for Refugee Medical Assistance. Once a refugee begins receiving Refugee Medical Assistance, he continues to receive it through his eighth month in the United States. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

400. INCOME ~~AND RESOURCES~~ ON DATE OF APPLICATION.

Eligibility is determined using income ~~and resources~~ on the date of application. Income is not averaged over the application processing period. (~~4-2-08~~)()