

Dear Senators HEIDER, Souza, Jordan, and
Representatives WOOD, Packer, Chew:

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

IDAPA 16.03.04 - Rules Governing the Food Stamp Program in Idaho - Proposed Rule (Docket
No. 16-0304-1801);

IDAPA 16.03.08 - Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program
- Proposed Rule (Docket No. 16-0308-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/13/2018. 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 12/12/2018.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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 Drafting Attorney - Elizabeth Bowen

DATE: October 24, 2018

SUBJECT: Department of Health and Welfare

IDAPA 16.03.04 - Rules Governing the Food Stamp Program in Idaho - Proposed Rule (Docket No. 16-0304-1801)

IDAPA 16.03.08 - Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program - Proposed Rule (Docket No. 16-0308-1801)

Summary and Stated Reasons for the Rule

Docket No. 16-0304-1801: This rule relating to the food stamp program establishes a definition of "self-employment" to provide clarity for eligibility determinations. The rule also revises a reference to a federal law.

Docket No. 16-0308-1801: This rule relating to the Temporary Assistance for Families in Idaho Program clarifies that children receiving supplemental security income shall not be considered household members for purposes of TAFI. The rule also removes language establishing that 18-year-olds may be considered household members under certain circumstances.

Negotiated Rulemaking / Fiscal Impact

Docket No. 16-0304-1801 (food stamps): Negotiated rulemaking was not conducted, as it was not considered feasible. There is no anticipated negative fiscal impact on the state general fund.

Docket No. 16-0308-1801 (TAFI): Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

Docket No. 16-0304-1801 (food stamps): I.C. 56-203.

Docket No. 16-0308-1801 (TAFI): I.C. 56-202.

cc: Department of Health and Welfare
Frank Powell and Trinette Middlebrook

*** PLEASE NOTE ***

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
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Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.04 – RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-1801
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. This action is authorized pursuant to Section 56-203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

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:

These rules are being updated to provide clarification for self-employment and update obsolete language. The rules as currently written cause confusion for participants and staff when determining eligibility. These rules define self-employment and include a referral process for the state's mandatory employment and training program. Updates are also being made for participation in the Workforce Investment Act (WIA), now known as the Workforce Innovation and Opportunity Act (WIOA) programs.

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

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

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking. The Idaho Food Stamp Program is a federally funded program.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted and deemed not feasible as these changes are being made to reflect updated policies pertaining to the Food Stamp Program based on recommendations from our federal and state partners.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 31st day of August, 2018.

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
dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0304-1801
(Only Those Sections With Amendments Are Shown.)

012. DEFINITIONS M THROUGH Z.

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

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

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

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

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

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

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

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

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

09. Public Assistance. Public assistance means Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, and Disabled (AABD). (4-6-05)

10. Recertification. A recertification is a process for determining ongoing eligibility for Food Stamps. (4-11-06)

11. Retail Food Store. A retail food store, for Food Stamp purposes means: (6-1-94)

a. An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)

b. Public or private communal dining facilities and meal delivery services. (6-1-94)

c. Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)

d. Public or private nonprofit group living arrangements. (6-1-94)

e. Public or private nonprofit shelters for battered women and children. (6-1-94)

f. Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. (6-1-94)

- g.** A farmers' market. (6-1-94)
- h.** An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FCS. (7-1-98)
- 12.** **Sanction.** A penalty period when an individual is ineligible for Food Stamps. (3-30-07)
- 13.** **Seasonal Farmworker Household.** A seasonal farmworker household has a member who does agricultural work of a seasonal or other temporary nature. (4-6-05)
- 14.** **Self-Employment.** Self-employment is the process of actively earning income directly from one's own business, trade, or profession. To be considered self-employed, a person is responsible for obtaining or providing a service or product that generates or is expected to generate income. Self-employment applies only to a business owned by one (1) person. A business owned by more than one (1) person is considered employment, not self-employment. ()
- 145.** **Spouse.** Persons who are legally married under Idaho law. (4-4-13)
- 156.** **Standard Utility Allowance (SUA).** Utility deduction given to a food stamp household that has a cost for heating or cooling. (4-11-06)
- 167.** **State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)
- 178.** **State Agency.** The Idaho Department of Health and Welfare. (6-1-94)
- 189.** **Student.** An individual between the ages of eighteen (18) and fifty (50), physically and intellectually fit, and enrolled at least half-time in an institution of higher education. (6-1-94)
- 1920.** **Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements. (4-11-06)
- 201.** **Systematic Alien Verification for Entitlements (SAVE).** The federal automated system that provides immigration status needed to determine an applicant's eligibility for many public benefits, including Food Stamps. (4-11-06)
- 242.** **Telephone Utility Allowance (TUA).** Utility deduction given to a Food Stamp household that has a cost for telephone services and no other utilities. (3-29-10)
- 223.** **Timely Notice.** Notice that is mailed via the U. S. Postal Service, or electronically, at least ten (10) days before the effective date of an action taken by the Department. (3-29-12)
- 234.** **Twelve Month Contact.** For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (4-6-05)
- 245.** **Tribal General Assistance.** Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. This cash is intended to promote the health and well-being of recipients. (4-11-06)
- 256.** **Verification.** The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)
- 267.** **Verified Upon Receipt.** Food stamp benefits are adjusted on open food stamp cases when information is received from "verified upon receipt" sources. Information "verified upon receipt" is received from a manual query or automated system match with the Social Security Administration or Homeland Security query for citizenship status. (3-30-07)

278. Written Notice. Correspondence that is generated by any method including handwritten, typed, or electronic, delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. The terms “notice” and “written notice” are used interchangeably. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

014. ABBREVIATIONS I THROUGH Z.

For the purposes of the Food Stamp Program, the following abbreviations are used. (4-11-06)

- 01. ICCP.** Idaho Child Care Program. (4-11-06)
- 02. ICSES.** Idaho Child Support Enforcement System. (4-11-06)
- 03. IEVS.** Income and Eligibility Verification Systems. (6-1-94)
- 04. IHE.** Inadvertent household error. (6-1-94)
- 05. INS.** Immigration and Naturalization Service, in 2003, became the United States Citizenship and Immigration Service (USCIS), a Division of Homeland Security. (4-11-06)
- 06. INA.** Immigration and Nationality Act. (4-6-05)
- 07. IPV.** Intentional program violation. (6-1-94)
- 08. IRS.** Internal Revenue Service. (6-1-94)
- 09. JSAP.** Job Search Assistance Program. (6-1-94)
- 10. LUA.** Limited utility allowance. (4-11-06)
- 11. MUA.** Minimum utility allowance. (4-11-06)
- 12. NADA.** National Automobile Dealer’s Association. (4-11-06)
- 13. PA.** Public Assistance. (6-1-94)
- 14. RSDI.** Retirement, Survivors, Disability Insurance received from SSA. (6-1-94)
- 15. SAVE.** Systematic Alien Verification for Entitlements. (4-11-06)
- 16. SAW.** Special Agricultural Worker. (6-1-94)
- 17. SDX.** State Data Exchange. (6-1-94)
- 18. SQC.** State Quality Control. (6-1-94)
- 19. SRS.** Self Reliance Specialist. (7-1-98)
- 20. SUA.** Standard utility allowance. (4-11-06)
- 21. SSA.** Social Security Administration. (6-1-94)
- 22. SSI.** The Federal Supplemental Security Income Program for the aged, blind or disabled. (6-1-94)

- 23. SSN. Social Security number. (6-1-94)
- 24. SWICA. State Wage Information Collection Agency. (6-1-94)
- 25. TAFI. Temporary Assistance for Families in Idaho. (7-1-98)
- 26. TOP. Treasury Offset Program. (3-15-02)
- 27. TUA. Telephone Utility Allowance. (3-29-10)
- 28. UI. Unemployment Insurance. (6-1-94)
- 29. USDA. United States Department of Agriculture. (6-1-94)
- 30. VA. The Veterans Administration. (6-1-94)
- 31. WIOA. The Workforce *Investment Innovation and Opportunity* Act. (~~3-15-02~~)()
- 32. WIC. The special supplemental Food Program for Women, Infants, and Children. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

227. EXEMPTIONS FROM JSAP.

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

01. Parents or Caretakers of a Child Under Six Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6) is exempt from JSAP. If the child becomes six (6) during the certification period, the parent or caretaker must register for JSAP at the next scheduled six-month or twelve-month contact or recertification, unless exempt for another reason. (3-29-12)

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

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

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

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

b. He is enrolled at least half-time in any other recognized school or training program. (5-3-03)

c. He remains enrolled during normal periods of class attendance, vacation, and recess. If he graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), he must register for work at the next scheduled six-month or twelve-month contact or recertification. (3-29-12)

05. SSI Applicants. A person who is applying for SSI is exempt from JSAP until SSI eligibility is determined. (5-3-03)

- 06. Persons Who Are Employed.** A person who is employed is exempt from JSAP if: (5-3-03)
- a. He is working at least thirty (30) hours per week; or (5-3-03)
 - b. He is receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours; or (5-3-03)
 - c. He is a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (5-3-03)
- 07. Persons Who Are Self-Employed.** A person who is self-employed is exempt from JSAP ~~if~~ when the person is working a minimum of thirty (30) hours per week ~~or~~ and is receiving earnings equal to or greater than the Federal minimum wage multiplied by thirty (30) hours. (~~5-3-03~~)()
- 08. Addicts or Alcoholics.** A regular participant in a drug or alcohol treatment and rehabilitation program is exempt from JSAP. (6-1-94)
- 09. Unemployment Insurance (UI) Applicant/Recipient.** A person receiving UI is exempt from JSAP. A person applying for, but not receiving UI, is exempt from JSAP if he is required to register for work with the Department of Commerce and Labor as part of the UI application process. (5-3-03)
- 10. Children Under Age Sixteen.** A child under age sixteen (16) is exempt from JSAP. A child who turns sixteen (16) within a certification period must register for JSAP at the six-month or twelve-month contact or recertification, unless exempt for another reason. (3-29-12)
- 11. Persons Age Sixteen or Seventeen.** A household member age sixteen (16) or seventeen (17) is exempt from JSAP if he is attending school at least half-time, or is enrolled in an employment and training program, including GED, at least half-time. (5-3-03)
- 12. Participants Age Sixty or Older.** A participant age sixty (60) or older is exempt from JSAP. (5-3-03)
- 13. Pregnant Women.** A pregnant woman in her third trimester is exempt from JSAP. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

251. ABLE BODIED ADULTS WITHOUT DEPENDENTS (ABAWD) WORK REQUIREMENT.

To participate in the Food Stamp program, a person must meet one (1) of the conditions in Subsections 251.01 through 251.05 of this rule. A person who does not meet one (1) of these conditions may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in a fixed thirty-six (36) month period. (3-29-17)

- 01. Work at Least Eighty Hours per Month.** The person must work at least eighty (80) hours per month. The definition of work under Section 251 of this rule is any combination of: (5-3-03)
- a. Work in exchange for money. (3-15-02)
 - b. Work in exchange for goods or services, known as “in-kind” work. (3-15-02)
 - c. Unpaid work, with a public or private non-profit agency. (3-15-02)
- 02. Participate in JSAP or Another Work Program.** The person must participate in and comply with the requirements of the JSAP program (other than job search or job readiness activities), the WIOA program, a program under Section 236 of the Trade Act of 1974, or another work program recognized by the Department. The

person must participate for at least eighty (80) hours per month.

~~(3-15-02)~~()

03. Combination of Work and Work Programs. The person must work and participate in a work program. Participation in work and work programs must total at least eighty (80) hours per month. (3-15-02)

04. Participate in Work Opportunities. The person must participate in and comply with the requirements of a Work Opportunities program. (7-1-99)

05. Residents of High Unemployment Areas. ABAWDs residing in a county identified as having high unemployment or lack of jobs are not subject to the three (3) month limitation of benefits. ABAWDs residing in these counties are subject to JSAP work requirement but will not lose Food Stamp eligibility after three (3) months if they participate fewer than eighty (80) hours per month. An ABAWD residing in a high unemployment area must participate according to his plan. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

255. REGAINING ELIGIBILITY.

ABAWDs whose three (3) month eligibility expires may regain eligibility for Food Stamps. During any thirty (30) consecutive days, the person must meet one (1) of the work requirements in Subsections 255.01 and 255.02. Prorate Food Stamp benefits from the date the person regains eligibility. ABAWDs must continue to meet the work requirement to get Food Stamps, or meet conditions for the three (3) additional months. There is no limit on the number of times an ABAWD may regain and maintain eligibility by meeting the work requirement. (3-15-02)

01. Work Eighty Hours. The person must work eighty (80) or more hours per month. (3-15-02)

02. Participate in JSAP. The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the WIOA program, or a program under section 236 of the Trade Act of 1974 for eighty (80) or more hours per month. ~~(3-15-02)~~()

(BREAK IN CONTINUITY OF SECTIONS)

284. DETERMINING STUDENT ELIGIBILITY.

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

01. Employment. (3-29-12)

a. The student is employed a minimum of eighty (80) hours per month and is paid for such employment; or (3-29-12)

b. The student is self-employed a minimum of eighty (80) hours per month; and (3-29-12)

c. The student must earn at least the Federal minimum wage times eighty (80) hours. (3-29-12)

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

03. Caring for Dependent Child. The student is responsible for the care of a dependent household member under age six (6). There must not be another adult in the household available to care for the child. Availability of adequate child care is not a factor. The student is responsible for the care of a dependent household

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

382. RESOURCES EXCLUDED BY FEDERAL LAW.

Resources listed in Section 382 are excluded by Federal law: (3-15-02)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. The Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-134 as Amended by P.L. 103-66. Effective January 1, 1994, interest of individual Indians in trust or restricted lands. (6-1-94)

04. P.L. 93-288 as Amended by P.L. 100-707. Payments from Disaster Relief and Emergency Assistance. (6-1-94)

05. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

06. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)

07. P.L. 94-189. The Sac and Fox Indian Claims Agreement. (6-1-94)

08. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)

09. P.L. 95-433. The Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)

10. P.L. 96-420. The Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)

11. P.L. 97-403. Payments to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)

12. P.L. 97-408. Payments to the Blackfeet, Gros Ventre and Asiniboine Tribes, Montana and the Papago Tribe, Arizona. (6-1-94)

13. P.L. 98-64 and P.L. 97-365. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)

14. P.L. 98-123. Funds awarded to members of the Red Lake Band of Chippewa Indians. (6-1-94)

15. P.L. 98-500. Funds provided to heirs of deceased Indians under the Old Age Assistance Claims

- Settlement Act, except for per capita shares in excess of two thousand dollars (\$2,000). (6-1-94)
16. **P.L. 99-264.** Payments to the White Earth Band of Chippewa Indian Tribe, Michigan. (6-1-94)
 17. **P.L. 99-346.** Payments to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
 18. **P.L. 99-498 and P.L. 102-523 Student Loans.** Financial assistance funded in whole or in part under Title IV of the Higher Education Act. (6-1-94)
 19. **P.L. 101-41.** Payments to the Puyallup Tribe of Indians, Washington. (6-1-94)
 20. **P.L. 101-277.** Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida and the Independent Seminole Indians of Florida. (6-1-94)
 21. **P.L. 101-426.** Payments from the Radiation Exposure Compensation Act. (6-1-94)
 22. **P.L. 102-237.** Resources of any mixed household member who gets TAFI or SSI. (7-1-98)
 23. **P.L. 103-286.** Effective 8-1-94, payments made to victims of Nazi persecution. (1-1-95)
 24. **P.L. 103-436.** Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
 25. **P.L. 104-204.** Payments to children with spina bifida born to Vietnam veterans. (7-1-99)
 26. **Civil Liberties Act of 1988.** Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
 27. **SSI Payments Under Zebley v. Sullivan Ruling.** Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
 28. **BIA Education Grant.** Bureau of Indian Affairs (BIA) Higher Education Grant Program. (6-1-94)
 29. **WIC.** Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
 30. **WIOA.** Payments from the Workforce ~~Investment~~ **Innovation and Opportunity Act (WIOA).** ~~(3-15-02)~~(____) (6-1-94)
 31. **Energy Assistance.** Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)
 32. **HUD Payments.** HUD retroactive subsidy payments for tax and utilities are excluded the month received and the next month. (6-1-94)
 33. **Agent Orange Settlement Fund.** Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Effective January 1, 1989. (6-1-94)
 34. **Federal EITC.** Federal Earned Income Tax Credit (EITC) is excluded for twelve (12) months from receipt. The month of receipt is the first month of the exclusion. (7-1-14)
 35. **Crime Act of 1984 as Amended by P.L. 103-322.** Payments from a crime victim compensation program. (7-1-99)
 36. **Federal Tax Refunds.** Federal income tax refunds are excluded as a resource for a period of twelve (12) months from receipt. The month of receipt is the first month of the exclusion. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

416. -- ~~425~~6. (RESERVED)

~~426. SELF-EMPLOYMENT INCOME.~~

~~For the purposes of these rules, self-employment income is from a business that is a sole proprietorship. A sole proprietorship is a business owned by one (1) person. The Idaho Food Stamp Program recognizes two (2) types of self-employment businesses. (5-8-09)~~

~~01. A Self-Employed Farmer. To be considered a self-employed farmer, a person must receive, or expect to receive, an annual gross income of one thousand dollars (\$1000) or more earned from farming activities. (5-8-09)~~

~~02. All Other Self-Employment Businesses. (5-8-09)~~

(BREAK IN CONTINUITY OF SECTIONS)

429. ~~OFFSETTING FARM~~ SELF-EMPLOYMENTED LOSSES FARMER.

~~To be considered a self-employed farmer, a person must receive, or expect to receive, an annual gross income of one thousand dollars (\$1,000) or more earned from farming activities. If a farmer's cost of producing self-employment income results in a loss, the Department subtracts the loss from other countable income in the household in accordance with 7 CFR 273.11(a)(2)(ii)(A) and (B). (5-8-09)()~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0308-1801

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

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

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

The Department is amending these rules relating to:

1. Children receiving Supplemental Security Income (SSI) income when their families apply for and receive TAFI benefits; and
2. A child's eligibility when the child turns 18 years old.

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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

1. The fiscal impact for a child who receives Supplemental Security Income (SSI), is anticipated to be cost-neutral.
2. The fiscal impact related to the change being made in regards to the eligibility of a TAFI household with a child turning 18 is estimated to be between \$2000–\$6000 in cost savings. The state general fund portion would be \$650–\$1950 and the federal funds portion would be \$1350–\$4050.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking published in the July 5, 2017, Idaho Administrative Bulletin, [Vol. 17-7, page 55](#). The content for Docket No. 16-0308-1801 was negotiated under Docket No. 16-0308-1701 in July of 2017.

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 Ericka Rupp at (208) 334-5641.

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 24, 2018.

Dated this 31st day of August, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
Phone: (208) 334-5500 / Fax: (208) 334-6558
dhwrules@dhw.idaho.gov

450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0308-1801
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. **Agency Error.** A benefit error caused by the Department's action or failure to act. (7-1-12)
02. **Applicant.** An individual who applies for Temporary Assistance for Families in Idaho. (7-1-98)
03. **Assistance.** Cash payments, vouchers, and other benefits designed to meet a family's ongoing basic needs. Assistance includes recurring benefits, such as transportation and child care, conditioned on participation in work activities. (3-30-01)
04. **Caretaker Relative.** An adult who is a specified relative, other than parents, who has an eligible related child residing with them and who is responsible for the child's care. Only one (1) child in the family must be related to one (1) of the following specified relatives: brother, sister, aunt/great aunt, uncle/great uncle, grandparent/great grandparent, nephew, niece, cousin, any one (1) of these relationships by half-blood, a step-sibling, or a spouse of a relative by marriage, even if the marriage has ended. (3-29-17)
05. **Claim Determination.** The action taken by the Department establishing the household's liability for repayment when a TAFI overpayment occurs. (7-1-12)
06. **Department.** The Idaho Department of Health and Welfare. (7-1-98)
07. **Dependent Child.** A child under the age of eighteen (18), ~~or under the age of nineteen (19) and attending, full time, a secondary school or the equivalent level of vocational or technical training.~~ (3-30-01)()
08. **Earned Income.** Cash or in-kind payment derived from employment or self-employment. Receipt of a service, benefit or durable goods instead of wages is in-kind income. Earned income is gross earnings before deductions for taxes or any other purposes. (7-1-98)
09. **Family.** A family is an eligible individual or group of eligible individuals living in a common residence, whose income and resources are considered in determining eligibility. Spouses living together in a common residence are considered a family. Unrelated adults who are the parents of a common child are considered a family. Adult relatives who reside together are considered separate families. Unrelated families living in a common residence are considered separate families. (3-30-01)
10. **Good Cause.** The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-98)
11. **Household.** A unit of eligible individuals that includes parents, or may include caretaker relatives who have an eligible child residing with them. (3-29-17)
12. **Inadvertent Household Error (IHE).** A benefit error caused unintentionally by the household. (7-1-12)
13. **Noncustodial Parent.** A parent legally responsible for the support of a dependent minor child, who does not live in the same household as the child. (3-30-01)
14. **Parent.** The mother/step-mother or father/step-father of the dependent child. In Idaho, a man is presumed to be the child's father if he is married to the child's mother at the time of conception or at the time of the child's birth. (3-29-17)

15. **Participant.** An individual who has signed a Personal Responsibility Contract. (7-1-98)
16. **Personal Responsibility Contract (PRC).** An agreement negotiated between a family and the Department that is intended to result in self-reliance. (7-1-98)
17. **Temporary Assistance for Families in Idaho (TAFI).** Idaho's family assistance program. TAFI replaced the Aid to Families With Dependent Children (AFDC) program. (3-30-01)
18. **Temporary Assistance for Needy Families (TANF).** The Federal block grant provided to Idaho and used to fund TAFI. TANF funds other programs and services, including career enhancement and emergency assistance. (3-30-01)
19. **Unearned Income.** Income received from sources other than employment or self-employment, such as Social Security, unemployment insurance, and workers' compensation. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

125. MANDATORY TAFI HOUSEHOLD MEMBERS.

Individuals who must be included in the family are listed in Subsections 125.01 through 125.04 of this rule. (7-1-12)

01. **Children.** Children under the age of eighteen (18) ~~or, under the age of nineteen (19) if they are attending a secondary school full time.~~ Children must reside with a parent or caretaker relative who exercises care and control of them. A dependent child's brother or sister, including half (1/2) siblings, living in the same home as the dependent child must be included in the family. ~~Children receiving Supplemental Security Income (SSI) are excluded from the household~~ (3-29-17)()

02. **Parents.** Parents, as defined in Section 010 of these rules, who have an eligible child residing with them. (3-29-17)

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

04. **Spouses.** Anyone related by marriage to another mandatory household member. (7-1-12)

126. BUDGETING FOR CARETAKER RELATIVES.

Individuals who may be eligible are listed in Subsections 126.01 and 126.03 of this rule. (3-29-17)

01. **Relatives.** Adult specified relatives other than parents who have an eligible related child residing with them and who are responsible for the child's care. Only one (1) child in the family must be related to one (1) of the specified caretaker relatives defined in Section 010 of these rules. (3-29-17)

02. **Caretaker Relative Applying Only for Relative Child.** When a caretaker relative applies only for a relative child, only the child's income is counted. (3-29-17)

03. **Multiple Children.** When multiple children are included in the family unit and any child receives ~~Social Supplemental~~ Security Income, that income is not counted in the determination of the grant amount. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

142. SCHOOL ATTENDANCE RESPONSIBILITY.

School age children included in the family must attend school until they reach age eighteen (18) ~~or they graduate from a secondary school or the equivalent level of vocational or technical training, Job Corps, alternative or home~~

~~school~~. A fifty dollar (\$50) penalty per month, per child, will be subtracted from the grant if a dependent child does not attend school. This penalty does not apply if the child is participating in work activities outlined in the PRC.

~~(7-1-98)~~()

(BREAK IN CONTINUITY OF SECTIONS)

215. EXCLUDED INCOME.

The types of income listed in Subsections 215.01 through 215.~~38~~40 of this rule, are excluded.

~~(4-7-11)~~()

- 01. Supportive Services.** Supportive services payments. (7-1-98)
- 02. Work Reimbursements.** Work-related reimbursements. (7-1-98)
- 03. Child's Earned Income.** Earned income of a dependent child, who is attending school. (7-1-98)
- 04. Child Support.** Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-98)
- 05. Child's Supplemental Security Income (SSI).** Income received for a child from Supplemental Security Income (SSI). ()
- ~~05~~**6. Loans.** Loans with a signed, written repayment agreement. (7-1-98)
- ~~06~~**7. Third Party Payments.** Payments made by a person directly to a third party on behalf of the family. (7-1-98)
- ~~07~~**8. Money Gifts.** Money gifts, up to one hundred dollars (\$100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)
- ~~08~~**9. TAFI.** Retroactive TAFI grant corrections. (7-1-98)
- ~~10~~**9. Social Security Overpayment.** The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. (7-1-99)
- ~~10~~**1. Interest Income.** Interest posted to a bank account. (7-1-98)
- ~~11~~**2. Tax Refunds.** State and federal income tax refunds. (7-1-98)
- ~~12~~**3. EITC Payments.** EITC payments. (7-1-98)
- ~~13~~**4. Disability Insurance Payments.** Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-98)
- ~~14~~**5. Sales Contract Income.** Taxes and insurance costs related to sales contracts. (7-1-98)
- ~~15~~**6. Foster Care.** Foster care payments. (7-1-98)
- ~~16~~**7. Adoption Assistance.** Adoption assistance payments. (7-1-98)
- ~~17~~**8. Food Programs.** Commodities and food stamps. (7-1-98)
- ~~18~~**9. Child Nutrition.** Child nutrition benefits. (7-1-98)
- ~~19~~**20. Elderly Nutrition.** Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)

1981. ~~201.~~ **Low Income Energy Assistance.** Benefits paid under the Low Income Energy Assistance Act of (7-1-98)
9101. ~~212.~~ **Home Energy Assistance.** Home energy assistance payments under Public Law 100-203, Section (7-1-98)
- ~~223.~~ **Utility Reimbursement Payment.** Utility reimbursement payments. (7-1-98)
- ~~234.~~ **Housing Subsidies.** An agency or housing authority pays a portion of or all of the housing costs for a participant. (5-8-09)
- ~~245.~~ **Housing and Urban Development (HUD) Interest.** Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-98)
- ~~256.~~ **Native American Payments.** Payments authorized by law made to people of Native American ancestry. (7-1-98)
- ~~267.~~ **Educational Income.** Educational income includes deferred repayment education loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. (7-1-12)
- ~~278.~~ **Work Study Income of Student.** College work study income. (7-1-98)
- ~~289.~~ **VA Educational Assistance.** VA Educational Assistance. (7-1-98)
- ~~2930.~~ **Senior Volunteers.** Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)
- ~~301.~~ **Relocation Assistance.** Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)
- ~~312.~~ **Disaster Relief.** Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)
- ~~323.~~ **Radiation Exposure Payments.** Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)
- ~~334.~~ **Agent Orange.** Agent Orange settlement payments. (7-1-98)
- ~~345.~~ **Spina Bifida.** Spina bifida allowances paid to children of Vietnam veterans. (7-1-99)
- ~~356.~~ **Japanese-American Restitution Payments.** Payments by the U.S. Government to Japanese-Americans, their spouses, or parents (or if deceased to their survivors) interned or relocated during World War II. (3-30-01)
- ~~367.~~ **Vista Payments.** Volunteers in Service to America (VISTA) payments. (3-30-01)
- ~~378.~~ **Subsidized Employment.** Employment for which the employer receives a subsidy from public funds to offset a portion or all of the wages and costs of employing an individual. This type of employment is a short-term placement, pays prevailing wage, and a specific skill is acquired. The employment is prescribed through a memorandum of agreement with no guarantee of permanent employment for the participant. (5-8-09)
- ~~389.~~ **Temporary Census Income.** All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly

scheduled ten (10) year U.S. Census. (4-7-11)

~~39~~**40. Income Excluded By Federal Law.** Income excluded by federal law is not counted in determining income available to the participant. (7-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

240. INDIVIDUALS EXCLUDED FROM FAMILY SIZE.

Individuals listed in Subsections 240.01 through 240.056 are excluded from the family size in determining eligibility and grant amount. Income and resources of these ineligible family members are counted unless otherwise excluded in Section 215 of these rules. (7-1-99)()

01. Ineligible Non-Citizens. Individuals who are non-citizens and are not listed in Section 131. (7-1-98)

02. Drug Related Conviction. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance, when they do not comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (3-30-01)

03. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony. (7-1-98)

04. Felons Violating a Condition of Probation or Parole. Felons who are violating a condition of probation or parole imposed for a federal or state felony. (7-1-98)

05. Fraudulent Misrepresentation of Residency. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid or SSI from two (2) or more states at the same time are ineligible for ten (10) years from the date of conviction. (7-1-99)

~~**06. Children Receiving Supplemental Security Income (SSI).** A child who is receiving Supplemental Security Income (SSI). ()~~