

## Children's System Redesign Draft Rules for Review

Please review the following set of draft rules and post your comments in the "Draft Rules Feedback Form". Throughout the document you will see comment boxes. These comment boxes address areas still under development, modifications we have made based on provider and family feedback, and notes when a reference is made to another chapter of rules. We would appreciate your feedback specific to the highlighted areas, but your feedback does not need to be limited to these areas. We welcome comments on any portion of the rule that you feel is important.

The attached set of draft rules is 1 out of 3 that will be posted. The remaining rules will be posted throughout the week of July 6 – 9:

1) **Children's HCBS State Plan Option Services**

This section of rules describes the new benefit package for children meeting developmental disabilities eligibility criteria, meaning all children currently receiving DDA services will qualify for these benefits. The services are being offered under a new federal authority, section 1915(i) of the Social Security Act. This authority allows a state to offer home and community based services to participants without requiring that individuals meet institutional level of care.

This draft section of rules describes the new services that will be available to all children with developmental disabilities. The services will include:

- Respite
- Habilitative Supports
- Family Education

2) **Children's Waiver Services (coming soon)**

3) **Coordination of children's DD benefits (coming soon)**

## **IDAPA 16.03.10.660 – 666**

### **660. CHILDREN’S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION.**

In accordance with 1915i of the Social Security Act, the Department will pay for home and community based services provided by individuals or agencies that have entered into a provider agreement with the Department. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. ( )

### **661. CHILDREN’S HCBS STATE PLAN OPTION: DEFINITIONS**

- **This subsection is used to define services and terms that are relevant to this particular section of rule. As you read through the draft rules, please make suggestions for what should be defined under “Definitions” to ensure the reader is able to clearly interpret the language.**

### **662. CHILDREN’S HCBS STATE PLAN OPTION: PARTICIPANT ELIGIBILITY.**

Home and Community Based State Plan Option eligibility will be determined by the Department as described in Section 509 of these rules. The participant must be financially eligible for Medical Assistance as described in IDAPA 16.03.05, “Rules Governing Eligibility for Aid for the Aged, Blind, and Disabled (AABD),” Section 787 and Section §1915i of the Social Security Act. The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, participants must meet the following requirements: ( )

**01. Age of Participants.** Participants eligible to receive children’s HCBS must be birth through seventeen (17) years of age. ( )

**02. Eligibility Determinations.** The Department must determine that prior to receiving children’s HCBS state plan option services an individual must be determined to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code. ( )

### **663. CHILDREN’S HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.**

All children’s DD home and community based services must be identified on an Action Plan developed by the family-centered planning team, including the plan developer. The following services are reimbursable when provided in accordance with these rules: ( )

**01. Respite.** Respite is a support service provided to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver. Respite is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Respite may be provided in the participant’s home, the private home of the respite provider, a DDA, or in the community. Payment for respite services are not made for room and board. Respite services must: ( )

a. Only be offered to participants who have an unpaid caregiver living in the home who requires relief. ( )

b. Not be provided at the same time other Medicaid services are being provided. ( )

c. Not be provided on a continuous, long-term basis where it is part of daily services that would enable an unpaid caregiver to work. ( )

d. When respite is provided as group respite, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants.

e. The respite provider must maintain a log of the respite services, as defined in subsection 664.01, in the participant's record documenting the provision of activities outlined in the Action Plan.

**02. Habilitative Supports.** Habilitative Supports provide assistance to a family caring for a participant with a disability by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests and improve their skills by participating in natural environments. Habilitative Supports is not active treatment. Instead, the participant learns through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization and relationship building, and participation in leisure and community activities. Habilitative Supports must: ( )

a. Only be provided in community settings when integration into the community is an identified goal; ( )

b. Not supplant services provided in school or therapy, or supplant the role of the primary caregiver. ( )

c. Ensure the participant is actively participating in age appropriate activities and is engaging with typical peers. ( )

d. When habilitative supports is provided as group supports, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants.

e. The supports provider must maintain a log of the habilitative support services in the participant's record documenting the provision of activities outlined in the Action Plan. ( )

**03. Family Education.** Family Education is professional assistance to families to help them better meet the needs of the participant. It offers general education to the parent/legal guardian and other unpaid caregivers that are specific to the individual needs of the family and child as identified on the Action Plan. ( )

a. Family Education must be provided to the parent/legal guardian of the participant.

b. The Family Education providers must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the Action Plan.

**04. Family Directed Community Supports.** Participants eligible for children's home and community based state plan option may choose to family-direct their individualized budget rather than receive the traditional services described in this section of rule. The requirements for this option are outlined in IDAPA 16.03.13 "Consumer Directed Services." ( )

**05. Limitations.** ( )

a. Children's HCBS must not be provided at the same time as other Medicaid reimbursable services. ( )

b. HCBS state plan option services are subject to the participant's individualized budget determined through the eligibility process.

c. HCBS state plan option services cannot be used to pay for special education and related services that are included in a child's Individual Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA). The funding of such services is the responsibility of state and local education agencies.

## 664. CHILDREN'S HCBS STATE PLAN OPTION: PROCEDURAL REQUIREMENTS.

**01. General Requirements for Program Documentation.** Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's

involvement in and response to the services provided. For each participant the following program documentation is required: ( )

**a.** Direct Service Provider Information which includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: ( )

i. Date and time of visit; and ( )

ii. Services provided during the visit; and ( )

iii. A statement of the participant's response to the service, if appropriate to the service provided, including any changes in the participant's condition; and ( )

iv. Length of visit, including time in and time out, if appropriate to the service provided; and ( )

v. Place of service. ( )

vi. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. ( )

**b.** Respite Log.

**c.** Habilitative Supports Log.

**d.** Family Education.

**02. Reporting Requirements.** The DDA must complete six (6) month and annual reviews for services provided. Documentation of the six (6) month and annual reviews must be submitted to the plan developer, and must include:

**03. Additional Requirements for Participants Birth to Three Years of Age.**

**665. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES.**

All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department.

**01. Respite.** Respite services may be provided by an agency that is certified as a DDA, and is capable of supervising the direct services provided, or by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite services must meet the following minimum qualifications: ( )

**a.** Must be at least 18 years of age and be a high school graduate or have a GED, or must be at least 16 years of age when employed by a DDA.

**b.** Meet the qualifications prescribed for the type of services to be rendered or must be an individual selected by the waiver participant, the family, or the participant's guardian; ( )

**c.** Have received care giving instructions in the needs of the participant who will be provided the service; ( )

**d.** Demonstrate the ability to provide services according to a plan of service; ( )

**e.** Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; ( )

**f.** Be willing to accept training and supervision; be free of communicable diseases; and ( )

g. Respite care service providers who provide direct care and services must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 “Criminal History and Background Checks.” ( )

**02. Habilitative Support Staff.** Habilitative supports must be provided by an agency certified as a DDA, and who is capable of supervising direct services provided. Providers of habilitative supports must meet the following minimum qualifications: ( )

a. Must be at least 18 years of age;

b. Must be a high school graduate or have a GED; ( )

c. Demonstrate the ability to provide services according to a plan of service; ( )

d. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; ( )

e. Be willing to accept training and supervision; be free of communicable diseases; ( )

f. Demonstrate knowledge of infection control methods; ( )

g. Agree to practice confidentiality in handling situations that involve participants; ( )

h. Habilitative Supports providers who provide direct care and services must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 “Criminal History and Background Checks”; and ( )

i. Experience. The individual must be able to provide documentation of six (6) months supervised experience working with children with developmental disabilities. The experience must be gained through paid employment or university practicum experience or internship. If the individual does not have six (6) months of paid work experience prior to employment, the following is required:

i. The individual must receive increased supervision for a period of six (6) months...

j. Must demonstrate competencies related to the requirements to provide habilitative support services. ( )

**03. Family Education.** Family Education must be provided by an agency certified as a DDA who is capable of supervising direct services provided. Providers of family education must meet the following minimum qualifications:

a. Must hold at least a bachelor’s degree in a health, human services, educational, behavioral science or counseling field from a nationally accredited university or college and has: ( )

i. One year experience providing care to children with developmental disabilities; and ( )

ii. Must demonstrate competencies related to the requirements to provide family education services. ( )

**04. Requirements for Collaboration.** Providers of home and community based services must coordinate regularly with the family-centered planning team as specified on the Action Plan. ( )

**05. Requirements for Quality Assurance.** Providers of children’s home and community based state plan option services must demonstrate high quality of services through an internal quality assurance review process.

**666. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER REIMBURSEMENT.**

**01. Fee for Service.** Children's HCBS State Plan Option service providers will be paid on a fee for service basis, based on the type of service provided as established by the Department. ( )

**02. Claim Forms.** Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. ( )

**03. Rates.** The reimbursement rates calculated for children's HCBS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. ( )

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