



# January 2019 Collaborative Rule Making Meeting



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# Introductions and Basic Overview

- ❖ Process
- ❖ Overview of Last Meetings
- ❖ Not in Chronological Order
- ❖ “Department Approved”

# Ground Rules

- ❖ Avoid repeat questions
- ❖ Everyone has a right to be heard
- ❖ Strive for solution focused comments
- ❖ Be specific
- ❖ Be respectful
- ❖ Not every comment will be responded to today but they will be responded to and posted to web

# 16.03.10 → 16.03.09

- ❖ Rules related to Intervention Services in 16.03.10 have been moved to 16.03.09
  - ❖ Definitions
  - ❖ Provider Qualifications
  - ❖ Prior Authorization
  - ❖ Documentation Requirements

# Supports Services

All supports services will remain in the 16.03.10 rule set. This includes:

- ❖ Habilitative Supports
- ❖ Respite care
- ❖ Family Education
- ❖ Supports services delivered through the Family Directed model
- ❖ Adolescent respite is also being added as a new service.

# Rule Shifts

- ❖ 1915 (c) Waiver's Going Away
  - ❖ Children's DD
  - ❖ Act Early
- ❖ Intervention Services moved to 16.03.09
- ❖ Opportunity to Simplify 16.03.10



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# Services

# 16.03.10.663

## Habilitative Supports

**02. Habilitative Supports.** Habilitative Supports provides assistance to 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, practice skills learned in other therapeutic environments, and learn 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, personal care, relationship building, and participation in leisure and community activities.

# 16.03.10.663

## Habilitative Supports

Habilitative Supports must:

- a. Not supplant services provided in school or therapy, or supplant the role of the primary caregiver;
- b. Ensure the participant is involved in age-appropriate activities and is engaging with typical peers according to the ability of the participant; and
- c. Have a minimum of one (1) qualified staff providing direct services to every three (3) participants when provided as group habilitative supports. As the number and severity of the participants with functional impairments increases, the staff participant ratio shall be adjusted accordingly.

# 16.03.10.663

## Respite

**01. Respite.** Respite provides supervision 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 by a qualified agency provider (Developmental Disability Agency - DDA) or by an independent respite provider. An independent respite provider may be a relative of the child. Payment for respite services are not made for room and board. Respite may be provided in the participant's home, the private home of the independent respite provider, a DDA, or in the community, as follows:.

## 16.03.10.663 Respite (cont.)

- a. Respite must only be offered to participants living with an unpaid caregiver who requires relief.
- b. Respite cannot exceed fourteen (14) consecutive days.
- c. Respite must not be provided at the same time other Medicaid services are being provided with the exception of when an unpaid caregiver is receiving family education.

## 16.03.10.663 Respite (cont.)

- d. Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work.
- e. The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others, and must be documented in the participant's record.

# 16.03.10.663

## Respite (cont.)

- f. When respite is provided as group respite, the following applies:
  - i. When group respite is center-based, there must be a minimum of one (1) qualified staff providing direct services to every six (6) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly.
  - ii. When group respite is community-based, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly.

## 16.03.10.663 Respite (cont.)

- g.** Respite cannot be provided as center-based by an independent respite provider. An independent respite provider can provide group respite when the following are met:
  - i.** The independent respite provider is a relative; and
  - ii.** Is delivering respite to no more than three (3) siblings; and
  - iii.** The service is delivered in the home of the participants or the independent respite provider.

## 16.03.10.663 Respite (cont.)

- h.** Adolescent respite is a supervision support service provided to children ages 12 and older with a developmental disability. Adolescent respite may be used afterschool or on days when school is not in session to support the child while the unpaid caregiver is working. Adolescent respite may only be offered to participants living with the unpaid caregiver.

# 16.03.10.663

## Family Education

**03. Family Education.** Family education is professional assistance to families to help them better meet the needs of the participant. It offers education to the parent or legal guardian that is specific to the individual needs of the family and child as identified on the plan of service. Family education is delivered to families to provide an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to their child's diagnoses.

## 16.03.10.663.03 Family Education (cont.)

- a. Family education may also provide assistance to the parent or legal guardian in educating other unpaid caregivers regarding the needs 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 plan of service.
- c. Family education may be provided in a group setting not to exceed five (5) participants' families.

Submit Comments Now

# Provider Qualifications

## 16.03.10.665

# 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.

# 16.03.10.661

## Definitions

**07. Human Services Field.** A particular area of academic study in that includes, but is not limited to, sociology, special education, rehabilitation counseling, and psychology as described in 42 CFR § 483.430(b)(5)(x).

**08. Professional.** A person qualified to provide family education services.

## 16.03.10.665

# Provider Qualifications and Duties

**02. Habilitative Support Staff.** Habilitative supports must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided. Providers of habilitative supports must meet the following minimum qualifications:

- a. Must be at least eighteen (18) years of age;
- b. Must be a high school graduate or have a GED;
- c. Have received 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;

## 16.03.10.665

# Provider Qualifications and Duties (cont.)

- e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways:
  - i. Have previous work experience gained through paid employment, university practicum experience, or internship; or
  - ii. Have on-the-job supervised experience gained through employment at a DDA with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the clinical supervisor for a period of six (6) months while delivering services.
  - iii. For individuals providing Habilitative Supports to children age birth to three (3) the six (6) months of documented experience must be with infants, toddlers or children birth to three (3) years of age with developmental delays or disabilities.

## 16.03.10.665

### Provider Qualifications and Duties (cont.)

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

- a. Must meet the qualifications of a Intervention Specialist, as defined IDAPA 16.03.09.575.04 ; or
- b. Meet the minimum qualifications of Intervention Professional, as outlined in IDAPA 16.03.09.575.05; or
- c. Meet the minimum qualifications to provide services under a Department approved Evidence Based Model Intervention Specialist, as outlined in IDAPA 16.03.09.575.08; or

## 16.03.10.665 Provider Qualifications and Duties (cont.)

- d. Meet the minimum qualifications to provide services under a Department approved Evidence Based Model Intervention Professional, as outlined in IDAPA 16.03.09.575.09.
- e. Individuals providing Family Education for infants and toddlers from birth to three (3) years of age must meet the additional requirements as outlined in IDAPA 16.03.09.575.10 or IDAPA 16.03.09.575.11.

## 16.03.10.665

### Provider Qualifications and Duties (cont.)

- f. Each individual providing family education services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any calendar year, he may not provide services thereafter until the required number of training hours have accumulated. Training hours may not be earned in a current annual training period to be applied to a future or previous calendar year.

## 16.03.10.665

### Provider Qualifications and Duties (cont.)

**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, 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 qualifications:

## 16.03.10.665

### Provider Qualifications and Duties (cont.)

- a. Must be at least sixteen (16) years of age when employed by a DDA; or
- b. Must be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite providers; and
- c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian; and

## 16.03.10.665 Provider Qualifications and Duties (cont.)

- d. Have received instructions in the needs of the participant who will be provided the service; and
- e. Demonstrate the ability to provide services according to a plan of services; and
- f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 “Criminal History and Background Checks”; and
- g. When employed by a DDA must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, “Developmental Disabilities Services (DDA).” Independent respite providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter.

## 16.03.10.665 Provider Qualifications and Duties (cont.)

**04. Requirements for Clinical Supervision.** All DDA support services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative supports as defined in IDAPA 16.03.21 “Developmental Disabilities Agency (DDA).”

Submit Comments Now

# Family Directed Community Supports

# Family Directed Community Supports

## 16.03.10.663.04

- Families of participants eligible for the children's home and community based state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsection 663.01 through 663.03 of this rule when the participant lives at home with his parent or legal guardian.

## 16.03.10.683.01

- Families of participants eligible for the children's DD waiver may choose to direct their individualized budget rather than receive the traditional services described in Subsections 683.01 through 683.06 of this rule when the participant lives at home with the parent or legal guardian.

# Family Directed Community Supports

## 16.03.10.663.04 (cont.)

- The requirements for this option are outlined in Subsections 520 through 522, 524 through 526.03, 526.06 through 526.0, 527, 528, and 660 through 662 of this rule and IDAPA 16.03.13 “Consumer-Directed Services.”

# Coverage and Limitations

## 16.03.10.663.05

### Limitations.

- a. HCBS state plan option services are limited by the participant's individualized budget amount.

## 16.03.10.683.02

**Service limitations. Children's FDS waiver services are subject to the following limitations:**

- a. **Place of Service Delivery. Waiver services may be provided in the participant's personal residence, community, or DDA. The Following living situations are specifically excluded as a place of service for waiver services:**

# Coverage and Limitations

**16.03.10.663.05**

**16.03.10.683.02**

- i. **Licensed skilled or intermediate care facilities, certified nursing facility (NF) or hospital; and**
- ii. **Licensed Intermediate Care Facility for person with Intellectual Disabilities (ICF/ID); and**
- iii. **Residential Care or Assisted Living Facility;**
- iv. **Additional limitation to specific services are listed under that service definition.**

# Coverage and Limitations

## **16.03.10.683.02 (cont.)**

- b. According to 42 CFR 440.180, Medicaid Waiver services cannot be used to pay for special education and related services that are included in a child's Individual Education Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA), that are otherwise available through a local educational agency.**
- c. Children's waiver services are limited by the participant's individualized budget amount.**

# Coverage and Limitations

## 16.03.10.663.05

- b.** For the children's HCBS state plan option services listed in Subsections 663.01, 663.02, and 663.04 of this rule, the following are excluded for Medicaid payment:

## 16.03.10.683.02

- d.** For the children's waiver services listed in Subsection 683.01 of these rules, the following are excluded for Medicaid payment:

# Coverage and Limitations

## 16.03.10.663.05

- i. Vocational services; and
- ii. Educational services; and
- iii. Recreational services.

## 16.03.10.683.02

- i. Vocational services;
- ii. Educational services; and
- iii. Recreational services.

## 16.03.10.685

# Children's Waiver Services: Provider Qualifications and Duties

- ▶ Family-Directed Waiver services must be delivered in accordance with rules and requirements as outlined in IDAPA 16.03.13 "Consumer Directed Services."

Submit Comments Now

# Procedural Requirements

# Procedural Requirements

## 16.03.10.664

**01. General Requirements for Program Documentation.** The provider must maintain records for each participant served. 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:

## 16.03.10.684

**02. General Requirements for Program Documentation.** Children's waiver providers must maintain records for each participant served. 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:

# Procedural Requirements

## 16.03.10.664

- a. Direct service provider information that includes written documentation of the service provided during each visit made to the participant and contains, at a minimum, the following information:

## 16.03.10.684

- 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:

# Procedural Requirements

## 16.03.10.664

- i. Date and time of visit; and
- ii. Support services provided during the visit; and
- iii. A statement of the participant's response to the service; and
- iv. Length of visit, including time in and time out; and
- v. Location 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.

## 16.03.10.684

- 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,
- iv. Length of visit, including time in and time out; and
- v. Location of service
- b. A copy of the above information must be maintained by the provider. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services.

Submit Comments Now

# Prior Authorization & Provider Reimbursement

# 16.03.10.521

## Definitions

**01. Annual.** Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days.

**21. Services.** Evaluation, training, assistance, and support services that are provided to persons with developmental disabilities.

**03. Baseline - Removed**

**08 Individualized Family Service Plan (IFSP) - Removed**

## 16.03.10.522

# Children's Developmental Disability Prior Authorization (PA) : Eligibility Determination

- ▶ The Department or its contractor will make final determination of a child's eligibility, based upon the assessments administered by the Department. Initial and annual assessments must be performed by the Department or its contractor. The purpose of the eligibility assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules, to determine a participant's eligibility for children's home and community-based state plan option services in accordance with Section 662 of these rules, and to determine a participant's eligibility for ICF/ID level of care for children's waiver services in accordance with Section 682 of these rule.

# 16.03.10.527

## Provider Reimbursement

**01. Individualized Budget Methodology.** The following four (4) categories are used when determining individualized budgets for children with developmental disabilities:

- a. HCBS State Plan Option. Children meeting developmental disabilities criteria.
- b. Children's DD Waiver - Level I.
- c. Children's DD Waiver – Level II.
- d. Children's DD Waiver – Level III. Children meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less.

## 16.03.10.527

### Provider Reimbursement cont.

**02. Participant Notification of Budget Amount.** The Department or its contractor notifies each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the budget amount.

**03. Annual Re-evaluation.** Individualized budgets will be re-evaluated annually. At the request of the participant, the Department or its contractor will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as identified in this rule.

# Rate Methodology

- ▶ 16.03.10.666.01 – 04 = Children's HCBS State Plan Option: Provider Reimbursement
- ▶ 16.03.10.686.01 – 04 = Children's Waiver Services: Provider Reimbursement

Submit Comments Now

# Quality Assurance and Improvement Processes

## 16.03.10.528

# Quality Assurance and Improvement Processes

The Department will establish performance criteria to meet federal assurances that measure the outcomes and effectiveness of the habilitation intervention services. Quality assurance activities will include the observation of service delivery with participants, onsite agency visits to review program protocol, and review of participant records maintained by the agency. All habilitation intervention providers will grant the Department immediate access to all information require to review compliance with these rules.

## 16.03.10.528

# Quality Assurance and Improvement Processes

**01. Quality Assurance.** Quality Assurance consists reviews to ensure compliance with the Department's rules and regulations. The department will visit providers to monitor outcomes and assure health and safety. The Department will also gather information to assess family and child satisfaction with services. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the child. If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process may occur. ent

# 16.03.10.528

## Quality Assurance and Improvement Processes

**02. Quality Improvement.** Quality improvement consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement activities may include:

- a. Consultation and/or
- b. Technical assistance and recommendations.

## 16.03.10.528

# Quality Assurance and Improvement Processes

**03. Corrective Action.** Corrective action is a formal process used by the Department to address significant, ongoing, or unresolved deficient practice identified during the review process. Corrective action, as outlined in the Department's Corrective Action Plan Process, includes but is not limited to:

- a. Issuance of a corrective action plan
- b. Referral to Medicaid Program Integrity Unit, or
- c. Action against a provider agreement.

Submit Comments Now



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# OUTLIERS

# 16.03.10.683

## Children's Waiver Services: Coverage and Limitations

### **683. CHILDREN'S WAIVER SERVICES: COVERAGE AND LIMITATIONS.**

All children's DD waiver services must be identified on a plan of service developed by the family-centered planning team, and must be recommended by a physician or other practitioner of the healing arts. In addition to the children's home and community based state plan option services described in Section 663 of these rules, individuals and their families may choose to self-direct their support services, as follows:

## 16.03.10.682

# Children's Waiver Services: Eligibility

682. CHILDREN'S WAIVER SERVICES: ELIGIBILITY.

**01. Age of Participants.** Children's DD Waiver. Children's DD waiver participants must be birth through seventeen (17) years of age.