

**TRIBAL AND PUBLIC INPUT SUMMARY REGARDING PROPOSED WAIVER AMENDMENTS TO  
IDAHO'S AGED AND DISABLED § 1915(c) HCBS WAIVER AND  
IDAHO'S ADULT DEVELOPMENTAL DISABILITIES § 1915(c) HCBS WAIVER**

TRIBAL INPUT

On October 27, 2017, the Idaho Department of Health and Welfare – Division of Medicaid (Department) sent written notice of its intent to submit waiver amendments to the Centers for Medicare and Medicaid Services (CMS) to revise the residential habilitation service rate methodology in the Aged and Disabled Home and Community-Based Services waiver (A&D Waiver) and Adult Developmental Disabilities Home and Community-Based Services waiver (Adult DD Waiver) to designated tribal representatives of Idaho's six (6) federally recognized tribes and posted this notice on the Idaho Medicaid Program and Tribes of Idaho Teamsite at <http://healthandwelfare.idaho.gov/meditribe/Home/tabid/1331/Default.aspx> (Medicaid Tribal Website). Tribal representatives were given at least 60 days' prior notice of the Department's intent to submit these waiver amendments.

On November 28, 2017, the Department sent a second written notice to designated tribal representatives of Idaho's six (6) federally recognized tribes (and posted this notice on the Medicaid Tribal Website) soliciting comments regarding the proposed waiver amendments. A copy of the proposed waiver amendments were made available on the internet at <http://healthandwelfare.idaho.gov/Medical/Medicaid/tabid/123/Default.aspx> (Department's Website).

The Department solicited input and Tribal representatives were given the opportunity to comment on the proposed SPA for a period of at least 30 days. The Department received no written or oral comments from Tribal representatives.

PUBLIC INPUT

On November 28, 2017, the Department published its intent to submit waiver amendments to CMS to revise the residential habilitation service rate methodology in the A&D Waiver and the Adult DD Waiver. The Department published this notice in the newspaper of widest circulation in each Idaho city with a population of 50,000 or more and on the Department's Website. A copy of the proposed waiver amendments were made available for public review on the Department's Website and during regular business hours at any of the Department's Regional Medicaid Services offices.

The Department solicited input and public stakeholders were given the opportunity to comment on the proposed waiver amendments for a period of at least 30 days. The Department held public hearings in each of its three (3) regional hubs for individuals to comment on the proposed waiver amendments.

OUTCOME

The Department received a total of 22 timely written comments and 1 timely oral comment from HCBS providers and a provider association. Most timely comments related to the proposed waiver amendments. Because providers have expressed their support for the revised reimbursement rates, the Department will submit the proposed waiver amendments to CMS. Because the revised reimbursement rates were derived in accordance with the rate setting methodology established IDAPA 16.03.10.037 and the rate setting methodology in the proposed waiver amendments aligns with the rate setting methodology currently described in IDAPA 16.03.10.037, the Department will submit the proposed waiver amendments to CMS without modification. However, The Department has heard commenters' concerns regarding the rate setting methodology currently described in IDAPA 16.03.10.037 and is committed to working with providers and other interested stakeholders to develop a new approach to setting future reimbursement rates.

COMMENT AND RESPONSE SUMMARY

A summary of the public comments the Department received and our responses to the comments follow. Upon submission of the waiver amendments, this summary document and a complete copy of each timely written comment will be forwarded to CMS.

***Qualified Comments in Support of the Revised Reimbursement Rates***

Type	Comment	Response
Written	<p>Most commenters expressed their support of the revised reimbursement rates (identified in the related public notice) as interim rates that were “a step in the right direction toward a reimbursement rate structure that will allow providers to pay direct service staff wages that are sufficient to attract a quality, consistent, and stable workforce.”</p> <p>However, these same commenters indicated that they did not support the methodology utilized to establish the revised reimbursement rates. Commenters expressed specific concerns regarding:</p> <ul style="list-style-type: none"> <li>• Use of Cost Survey;</li> <li>• Classification of residential habilitation direct care workers as Personal Care Aides (BLS Idaho Occupation Title 39-9021) for wage component;</li> <li>• Use of a single BLS occupation title instead of a blend of multiple BLS occupation titles for wage component;</li> <li>• Calculation of Program-Related Expenditures and General and Administrative Costs;</li> <li>• Use of inflation factor; and</li> <li>• Identification of triggers for rate reviews and rate adjustments.</li> </ul> <p>Additionally, these commenters expressed their support for the use of the Arizona “Brick” Model to set reimbursement rates.</p>	<p>The Department appreciates commenters’ support of the revised reimbursement rates for residential habilitation providers. The Department is working to update provider reimbursement rates in two phases: (1) implement revised reimbursement rates utilizing the rate setting methodology currently described in Idaho’s administrative rules (IDAPA) 16.03.10.037 and (2) work with providers and other interested stakeholders to develop a new approach to setting future reimbursement rates.</p> <p><u>Phase 1 – Implement Revised Reimbursement Rates.</u></p> <p>The revised reimbursement rates (identified in the related public notice) were derived in accordance with the rate setting methodology established in IDAPA 16.03.10.037. In order for Idaho Medicaid to begin reimbursing providers at these revised rates, the Department must amend the rate setting methodology described in Appendix I-2-a of its A&amp;D Waiver and in Appendix I-2-a of its Adult DD Waiver to align with the rate setting methodology currently described in IDAPA 16.03.10.037.</p> <p>Because providers have expressed their support of the revised reimbursement rates, the Department will submit the proposed waiver amendments to CMS. Because the revised reimbursement rates were derived in accordance with the rate setting methodology established IDAPA 16.03.10.037 and the rate setting methodology in the proposed waiver amendments aligns with the rate setting methodology currently described in IDAPA 16.03.10.037, the Department will submit the proposed waiver amendments to CMS without modification.</p> <p><u>Phase 2 – Develop New Approach to Setting Future Reimbursement Rates.</u></p> <p>The Department has heard commenters’ concerns regarding the rate setting methodology currently described in IDAPA 16.03.10.037 and is committed to working with stakeholders to develop a new approach to setting future reimbursement rates. The process to develop and implement a new approach to setting future reimbursement rates will require:</p> <ul style="list-style-type: none"> <li>• Drafting administrative rules that will support a revised rate setting methodology;</li> <li>• Bringing the revised administrative rules before the Idaho legislature for approval; and</li> <li>• If the revised administrative rules are approved by the Idaho legislature, then amending (for a second time) the rate setting methodology described in the A&amp;D Waiver and in the Adult DD Waiver to align with the revised rate setting methodology approved by the legislature.</li> </ul> <p>The Department has held more than 15 meetings since August 2016 to discuss the rate setting methodology for residential habilitation – supported living services. These meetings included meetings with the Idaho Association of Community Providers, the full residential habilitation – supported living provider community, public hearings (in multiple locations across the state) to accept comments regarding proposed changes to the rate setting methodology, and negotiated rulemaking meetings with interested stakeholders. The Department is currently working to draft revised administrative rules and will continue to seek additional stakeholder comments through this collaborative process in 2018.</p>

Written	<p>One commenter questioned why the revised reimbursement rates could not be implemented by the Department using an Information Release (as it did in January 2016) instead of amending the residential habilitation rate setting methodology in the waivers.</p>	<p>Thank you for your question. The January 2016 Information Release provided for temporary rates to address access concerns expressed by interested stakeholders in response to residential habilitation rates that were reinstated at the conclusion of <i>Armstrong v. Exceptional Child Center</i>. The temporary rates were effective until a cost survey could be completed in accordance with Idaho’s administrative rules (IDAPA) 16.03.10.037.</p> <p>The revised reimbursement rates (identified in the related public notice) were derived in accordance with the rate setting methodology established in IDAPA 16.03.10.037. In order for Idaho Medicaid to begin reimbursing providers at these revised rates, the Department must amend the rate setting methodology described in Appendix I-2-a of its A&amp;D Waiver and in Appendix I-2-a of its Adult DD Waiver to align with the rate setting methodology currently described in IDAPA 16.03.10.037.</p>
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**Comments Concerning the Rate Setting Methodology**

Type	Comment	Response
Written Oral	<p>Some commenters expressed their opposition to the rate setting methodology currently described in IDAPA 16.03.10.037 and the proposed waiver amendments and remained silent (i.e. did not indicate support or opposition) regarding the revised reimbursement rates.</p> <p>These commenters expressed specific concerns regarding:</p> <ul style="list-style-type: none"> <li>• Classification of residential habilitation direct care workers as Personal Care Aides (BLS Idaho Occupation Title 39-9021) for wage component;</li> <li>• Use of a single BLS occupation title instead of a blend of multiple BLS occupation titles for wage component;</li> <li>• Calculation of Program-Related Expenditures and General and Administrative Costs;</li> <li>• Use of inflation factors; and</li> <li>• Identification of triggers for rate reviews and rate adjustments.</li> </ul> <p>Additionally, these commenters expressed their support for the use of the Arizona “Brick” Model to set reimbursement rates.</p>	<p>Thank you for your comments. The Department has heard commenters’ concerns regarding the rate setting methodology currently described in IDAPA 16.03.10.037 and is committed to working with stakeholders to develop a new approach to setting future reimbursement rates. The process to develop and implement a new approach to setting future reimbursement rates will require:</p> <ul style="list-style-type: none"> <li>• Drafting administrative rules that will support a revised rate setting methodology;</li> <li>• Bringing the revised administrative rules before the Idaho legislature for approval; and</li> <li>• If the revised administrative rules are approved by the Idaho legislature, then amending (for a second time) the rate setting methodology described in the A&amp;D Waiver and in the Adult DD Waiver to align with the revised rate setting methodology approved by the legislature.</li> </ul> <p>The Department began this collaborative process in August 2016, and is currently working to draft revised administrative rules. The Department will continue to seek additional stakeholder comments through the negotiated rulemaking process in 2018.</p> <p>However, because a majority of commenters expressed their support of the revised reimbursement rates, the Department will submit the proposed waiver amendments to CMS. Because the revised reimbursement rates were derived in accordance with the rate setting methodology established IDAPA 16.03.10.037 and the rate setting methodology in the proposed waiver amendments aligns with the rate setting methodology currently described in IDAPA 16.03.10.037, the Department will submit the proposed waiver amendments to CMS without modification.</p>

Written Oral	Commenters expressed their concern that the rate methodology (and resulting rates) did not sufficiently address employee turnover rates, employee vacancy rates or market competition, which could then negatively impact participants' access to services.	<p>Thank you for your comments. The Department has heard commenters' concerns regarding the rate setting methodology currently described in IDAPA 16.03.10.037 and is committed to working with stakeholders to develop a new approach to setting future reimbursement rates. The process to develop and implement a new approach to setting future reimbursement rates will require:</p> <ul style="list-style-type: none"> <li>• Drafting administrative rules that will support a revised rate setting methodology;</li> <li>• Bringing the revised administrative rules before the Idaho legislature for approval; and</li> <li>• If the revised administrative rules are approved by the Idaho legislature, then amending (for a second time) the rate setting methodology described in the A&amp;D Waiver and in the Adult DD Waiver to align with revised rate setting methodology approved by legislature.</li> </ul> <p>The Department began this collaborative process in August 2016, and is currently working to draft revised administrative rules. The Department will continue to seek additional stakeholder comments through the negotiated rulemaking process in 2018.</p> <p>However, because a majority of commenters expressed their support of the revised reimbursement rates, the Department will submit the proposed waiver amendments to CMS. Because the revised reimbursement rates were derived in accordance with the rate setting methodology established IDAPA 16.03.10.037 and the rate setting methodology in the proposed waiver amendments aligns with the rate setting methodology currently described in IDAPA 16.03.10.037, the Department will submit the proposed waiver amendments to CMS without modification.</p>
Oral	One commenter expressed concern that the average cost per unit for residential habilitation services identified in Appendix J-2-d was \$1.46.	Thank you for your comment. The amount proposed for the average cost per unit for Residential Habilitation services reflects a weighted average of the fee schedule rates for hourly (individual and group) supported living, daily supported living, and daily certified family home residential habilitation services. Please refer to the appropriate fee schedule found on the Department's website for the specific reimbursement rate paid for each residential habilitation service.

***Comments in Support of Developing New Approaches to Setting Future Reimbursement Rates***

Type	Comment	Response
Written	Some commenters expressed their appreciation to the Department for working collaboratively with providers to develop new approaches to setting future reimbursement rates.	Thank you for your comments. The Department looks forward to continuing our collaborative efforts to develop new approaches to setting future reimbursement rates.

***Comments Concerning the Stated Nature of the Proposed Waiver Amendments***

Type	Comment	Response
Written	Several commenters noted that they did not understand the Department’s response in Section 3.B of the proposed waiver amendments titled “Nature of the Amendment.” Specifically, commenters requested that the Department clarify what was meant by “financial accountability provisions.”	<p>Thank you for requesting this clarification. Section 3.B of the proposed waiver amendments requires the Department to indicate the nature (or basic purpose) of the changes proposed in the waiver amendment. The Department responded that one of the basic purposes for the proposed changes was “[t]o revise financial accountability provisions regarding the methods and standards for setting payment rates for residential habilitation services.”</p> <p>Appendix I in the proposed waiver amendment is titled “Financial Accountability.” The methodology for setting residential habilitation reimbursement rates is a “provision” (or section) of Appendix I. Therefore, the phrase “financial accountability provisions” refers to those sections (including the Department’s responses) of the proposed waiver amendments found in Appendix I.</p> <p>The Department’s response means the proposed waiver amendments will change the residential habilitation rate setting methodology found in Appendix I.</p>

***Comments Concerning the Public Input Process***

Type	Comment	Response
Written	One commenter expressed concern that the public comment period encompassed the Christmas holiday, requested a two-week extension of the comment period, and requested that future comment periods be “structured at times other than key holidays in order not to inhibit public comments.”	<p>Thank you for your comment. The Department scheduled this comment period to accommodate all tribal and public input notice requirements and CMS review timelines, while ensuring implementation of the revised rates (assuming the budget increase is approved by the Idaho Legislature) in May 2018.</p> <p>The comment period was open from November 28, 2017 to December 29, 2017, a total of 32 days (or 31 excluding the one-day, Federal Christmas holiday). The number of comments received during this comment period was neither the highest nor the lowest number of comments received during other comment periods related to changing the rate setting methodology for residential habilitation services. Given that the comment period extended beyond 30 days and participation was in line with previous comment periods, the Department determined that opportunity for public comment was not inhibited because the comment period included a one-day Federal holiday.</p> <p>The Department will continue to schedule comment periods with sufficient time to allow for meaningful public input and required CMS review, without delaying future policy changes.</p>

<p>Written Oral</p>	<p>Commenters expressed their frustration that the Department has requested public comments in connection with earlier efforts to revise the residential habilitation reimbursement rate methodology, but did not make changes to its previous amendments or renewal applications based on the comments received.</p>	<p>Thank you for expressing your concerns regarding the public input process. The Department has reviewed, summarized and responded to the timely comments received in connection with its efforts to revise the residential habilitation rate setting methodology in its A&amp;D Waiver and its Adult DD Waiver. Each summary document was posted on the Department’s website for the public to view.</p> <p>As you are aware, the rate setting methodology described in the A&amp;D Waiver and the Adult DD Waiver cannot deviate from the rate setting methodology currently described in IDAPA 16.03.10.037 and approved by the Idaho legislature. In general, the rate setting methodology changes proposed by commenters during the public input process would first require promulgating changes to the Idaho administrative rules prior to making those changes in the waivers. The Department did not make changes recommended by commenters because it did not have the rule authority to make such changes.</p> <p>The Department has heard commenters’ concerns regarding the rate setting methodology currently described in IDAPA 16.03.10.037 and is committed to working with stakeholders to develop a new approach to setting future reimbursement rates. The process to develop and implement a new approach to setting future reimbursement rates will require:</p> <ul style="list-style-type: none"> <li>• Drafting administrative rules that will support a revised rate setting methodology;</li> <li>• Bringing the revised administrative rules before the Idaho legislature for approval; and</li> <li>• If the revised administrative rules are approved by the Idaho legislature, then amending (for a second time) the rate setting methodology described in the A&amp;D Waiver and in the Adult DD Waiver to align with the revised rate setting methodology approved by the legislature.</li> </ul> <p>The Department began this collaborative process in August 2016, and is currently working to draft revised administrative rules. The Department will continue to seek additional stakeholder comments through the negotiated rulemaking process in 2018.</p>
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Written	<p>Referencing the Department’s statement in Appendix I-2-a that “[c]opies of public notices and text of proposed significant reimbursement changes are made available for public review,” Commenters requested that the Department remove the word “significant” from this statement.</p> <p>Specifically, commenters requested that the Department publish and solicit public comments for any changes in rates.</p>	<p>Thank you for your comments. Under 42 CFR 447.205, which is made applicable to waivers under 42 CFR 441.304(e), the Department is required to “identify a local agency in each county where copies of proposed changes are available for public review” when the Department is proposing a “significant” change in its methods and standards for setting payment rates for services.</p> <p>In expressing concern, commenters abbreviated the Department’s statement in Appendix I-2-a. The Department’s full statement reads “[c]opies of public notices and text of proposed significant reimbursement changes are made available for public review on Department’s website and during regular business hours at agency locations in each Idaho county as identified in each public notice.”</p> <p>This full statement is not a limitation on when the Department will provide notice, but rather, it is an assurance to CMS that when the Department proposes “significant” changes (as defined in 42 CFR 447.205) in a reimbursement methodology, the Department will comply with the notice content requirements in 42 CFR 447.205(c)(4).</p> <p>The Department complies with all federal and state notice requirements. The Bureau of Developmental Disability Services has updated its public notice process not only to publish notices in local newspapers and on the Department’s website (in compliance with Federal guidance), but also to make reasonable efforts to notify interested stakeholders of proposed waiver changes via emails, letters, and/or phone calls, as appropriate.</p>
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