IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.07.33 - ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-1301

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

O1. Compliance With Department Criminal History and Background Check. All current Department Department Criminal History and Background Check. All current Department			
02. Availability to Work or Provide Service. Certain individuals are allowed to provide services a			
the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have dis			
designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history	•		
requirements applicable to each provider type are found in the rules that state the qualifications or certifit those providers. An individual listed in Subsection 009.01 of these rules is available to work on a provision	-		
at the discretion of the employer or agency once the individual has submitted his criminal history and bar			
check application, it has been signed and notarized, reviewed by the employer or agency, and no disqual	_		
crimes or relevant records are disclosed on the application. An individual must be fingerprinted within tw			
(21) days of submitting his criminal history and background check application. (5-8-09)			
a. An individual is allowed to work or have access to clients only under supervision until the crim	inal his-		
tory and background check is completed.	()		
b. An individual, who does not receive a criminal history and background check clearance, or a v	vaiver		
granted under the provisions in this chapter, may not provide direct care or services, or serve in a positio			
requires regular contact with clients accessing adult mental health services through the Department.	()		
02 Webser of Cataland Utages and Books and Charles Books As to dividual only a casis	altation of the		
03. Waiver of Criminal History and Background Check Denial. An individual, who receives a con			
unconditional denial for a criminal history and background check, may apply for a waiver to provide direct services, or serve in a position that requires regular contact with clients accessing adult mental health services.			
through the Department. A waiver may be granted on a case-by-case basis upon administrative review by			
Department of any underlying facts and circumstances in each individual case. A waiver will not be granted			
crimes listed in Subsection 009.04 of this rule.	()		
04. No Waiver for Certain Designated Crimes. No waiver will be granted by the Department for	any		
of the following designated crimes or substantially conforming foreign criminal violations:	()		
a. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Co	ode; ()		
b. Incest, as defined in Section 18-6602, Idaho Code;	()		
c. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code;	()		
d. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-400	1, 18-		
4003, and 18-4015, Idaho Code;	()		

	e. P	ossession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code;	()
	f. R	ape, as defined in Section 18-6101, Idaho Code;	()
	g. S	ale or barter of a child, as defined in Section 18-1511, Idaho Code;	()
	h. S	exual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Coo	le; ()
	i. Er	nticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code;	()
fined in	-	ducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitutions 18-5609 and 18-5611, Idaho Code;	ite,	as de)
	k. A	any felony punishable by death or life imprisonment; or	()
18-306,		ttempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes.	·205 (,)
other re	plem view	Administrative Review. An administrative review for a waiver may consist of a review of documental information provided by the individual, a telephone interview, an in-person interview, deemed necessary by the Department. The Department may appoint a subcommittee to cover reviews provided for under Subsections 009.03 through 009.12 of this rule.	or a	ny
within for	he A ourte Jnit.	Written Request for Administrative Review and Waiver. A written request for a waiver must administrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0 een (14) calendar days from the date of the issuance of a denial from the Department's Crimi The fourteen (14) day period for submitting a request for a waiver may be extended by the I ad cause.	026 nal	
ment io	got	ou cause.	(,
business	nent day	Scheduling of Administrative Review. Upon receipt of a written request for a waiver, the will determine the type of administrative review to be held, and conduct the review within the from the date of receipt. When an in-person review is appropriate, the Department will proleast seven (7) days notice of the review date.		
factors r		Factors Considered During Administrative Review. During the administrative review, the fol be considered:	lowi (ing)
	a.	The severity or nature of the crimes or other findings;	()
	b.	The period of time since the incidents occurred;	()
	c.	The number and pattern of incidents being reviewed;	()
	d.	Circumstances surrounding the incidents that would help determine the risk of repetition;	()
	e.	The relationship between the incidents and the position sought;	()
	nt, c	ctivities since the incidents, such as continuous employment, education, participation in ompletion of a problem-solving court or other formal offender rehabilitation, payment of res	ititu	tion,
or any o	tner	factors that may be evidence of rehabilitation.	()
	f.	A pardon that was granted by the Governor or the President;	()

h. The falsification or omission of information on the self-declaration form and other suppleme forms submitted; and	ntal ()
i. Any other factor deemed relevant to the review.	()
08. Administrative Review Decision . A notice of decision will be issued by the Department with fifteen (15) business days of completion of the administrative review.	nin ()
09. Decision to Grant Waiver . The Department's decision to grant a waiver does not set a preceder of subsequent requests by an individual for a waiver. A waiver granted under this chapter is not a criminal background check clearance, and is only applicable to services and programs governed under this chapter of the clearance of a criminal history and background does not apply to other Department programs requiring clearance of a criminal history and background	nal history napter. It
10. Revocation of Waiver . The Department may choose to revoke a waiver at its discretion for circumstances that it identifies as a risk to client health and safety, at any time.	()
11. Waiver Decisions Are Not Subject to Review or Appeal . The decision or actions of the Department	artment ()
12. Employer Responsibilities. A waiver granted by the Department is not a determination of suitability for employment. The employer is responsible for reviewing the results of a criminal history are background check even when a clearance is issued or a waiver is granted. Making a determination as to or risk of the individual to provide direct care services or to serve in a position that requires regular controlled controlled and vulnerable adults is the responsibility of the employer.	the ability
010. DEFINITIONS.	
For the purposes of these rules, the following terms are used as defined below:	(5-8-09)
01. Adult. An individual eighteen (18) years of age or older.	(5-8-09)
02. Adult Mental Health Services . Adult mental health services include psychiatric clinical services, case management, individual therapy, group therapy, psychosocial rehabilitation (PSR), assertive comm treatment (ACT), patient assistance program (PAP), benefit assistance, co-occurring disorders treatment pharmacological education. Mental health services do not include educational or vocational services relational academic subjects or vocational training, experimental procedures, habilitation, or any other which are primarily recreational or diversional in nature.	, and ated to
03. Applicant . An adult individual who is seeking mental health services through the Department whas completed, or had completed on his behalf, an application for mental health services	10 (5-8-09)
04. Client . A person receiving mental health services through the Department. The term "client" is synonymous with the following terms: patient, participant, resident, consumer, or recipient of treatment vices.	t or ser- (5-8-09)
05. Clinical Judgment . Refers to observations and perceptions based upon education, experience, as clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that a structured, integrated, and then used to reach decisions, individually or collectively, about an individual functional, mental, and behavioral attributes and mental health service needs.	are
06. Clinical Necessity . Adult mental health services are deemed clinically necessary when the Department, in the exercise of clinical judgment, recommends services to an applicant for the purpose of	of evaluat-

- **a.** Clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for treating the applicant's mental illness; and (5-8-09)
- **b.** Not primarily for the convenience of the applicant or service provider, not more costly than an alternative service or sequence of services, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's mental illness. (5-8-09)
- **07. Clinical Team.** A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed client. (5-8-09)
- **08. Department**. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (5-8-09)
- **09. Emergency**. An emergency exists if an adult individual is gravely disabled due to mental illness or there is a substantial risk that physical harm will be inflicted by the proposed client: (5-8-09)
- **a.** Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (5-8-09)
- **b.** Upon another person, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (5-8-09)
- **10.** Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: http://aspe.hhs.gov/poverty/. (5-8-09)
- **11. Functional Impairment.** Difficulties that substantially impair or limit role functioning with an individual's basic daily living skills, or functioning in social, family, vocational, or educational contexts including psychiatric, health, medical, financial, and community or legal area, or both. (5-8-09)
- **12. Good Cause**. A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. ()
- **123. Gravely Disabled**. An adult who, as a result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, essential medical care, shelter, or safety. (5-8-09)
- **134. Individualized Treatment Plan.** A written action plan based on an intake eligibility assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (5-8-09)
- **145. Intake Eligibility Assessment**. The collection of data, analysis, and review that the Department uses to screen and determine whether an applicant is eligible for mental health services available through the Department. (5-8-09)
- **156. Serious Mental Illness (SMI)**. Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): (5-8-09)
 - a. Schizophrenia; (5-8-09)

b.	Paranoia and other psychotic disorders;	(5-8-09)		
c. l	Bipolar disorders (mixed, manic and depressive);	(5-8-09)		
d. Major depressive disorders (single episode or recurrent);				
е.	Schizoaffective disorders; and	(5-8-09)		
f. (Obsessive-compulsive disorders.	(5-8-09)		
167. Serious and Persistent Mental Illness (SPMI) . A primary diagnosis under DSM-IV-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Dela sional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120 days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months:				
a.	Vocational or educational, or both.	(5-8-09)		
b.	Financial.	(5-8-09)		
c.	Social relationships or support, or both.	(5-8-09)		
d.	Family.	(5-8-09)		
e.	Basic daily living skills.	(5-8-09)		
f.	Housing.	(5-8-09)		
g.	Community or legal, or both.	(5-8-09)		
h.	Health or medical, or both.	(5-8-09)		
	8. Sliding Fee Scale . A scale used to determine an individual's financial obligation for services based deral Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."	(5-8-09)		
	9. Substantial Material Change in Circumstances. A substantial and material change in mstances which renders the Department's decision denying mental health services arbitrary and capital contents.	ricious. (5-8-09)		

Section 009 Draft