#### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

16.07.30 - BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS

DOCKET NO. 16-0730-1301 (NEW CHAPTER)

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 the Regional Mental Health Services Act, Title 39, Chapter 31, Idaho Code; also Sections 56-1003, 56-1004, 56-1004A, 56-1007 and 56-1009, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

\*ORIGINATING LOCATION -- LIVE MEETING\* Friday, October 18, 2013

12:30 - 2:30 pm (PDT) -- 1:30 - 3:30 pm (MDT)

Idaho Department of Health and Welfare, Central Office Conference Room 3A (3rd floor) 450 West State Street Boise, ID 83702

*VIDEOCONFERENCE LOCATIONS*		
Region I Office – Coeur d'Alene Main Conference Room 2195 Ironwood Court Coeur d'Alene, ID 83814  Region II Office – Lewiston 1st Floor Conference Rm. 1118 "F" Street Lewiston, ID 83501		
Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605	Region IV Office – Boise Room 137 1720 Westgate Drive, Suite A Boise, ID 83704	
Region V Office – Twin Falls	Region VI Office - Pocatello	
Room 116	<b>Room 225</b>	
823 Harrison	421 Memorial Drive	
Twin Falls, ID 83301	Pocatello, ID 83201	
Region VII Office – Idaho Falls		

Region VII Office – Idaho Fall Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402

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The hearing sites 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 proposed chapter establishes the benefit and eligibility process for behavioral health community crisis centers in the state of Idaho. These programs will provide behavioral health crisis services to persons residing in Idaho.

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 fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

These rules will provide an opportunity for the development of behavioral health community crisis centers and the Department of Health and Welfare may be making a budget request separate from these rules. However, there is no anticipated fiscal impact to the state general fund or any other funds due to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it was not feasible due to the fact that there is currently a lack of identifiable representatives of affected interests. Behavioral health community crisis centers are a component of the Idaho Behavioral Health system of care transformation. In the transformed structure, the Department of Health and Welfare retains its role as the state mental health authority and has responsibility for oversight of the behavioral health system of care. The proposed chapter establishes behavioral health community crisis centers and does not impact existing processes for private providers. There are no stakeholders outside of the Department at this time.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following two items are being incorporated by reference into these rules to give them the force and effect of law. These documents are not being reprinted in this chapter of rules due to their length and format and because of the cost for republication.

- 1. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-V), 2013.
- 2. Idaho Behavioral Health Standards, Idaho Department of Health and Welfare, 2013.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Casey Moyer at (208) 334-4916.

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 23, 2013.

DATED this 29th day of August, 2013.

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

email: dhwrules@dhw.idaho.gov

DEPARTMENT OF HEALTH AND WELFARE Behavioral Health Community Crisis Centers

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#### THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0730-1301

TITLE 07 CHAPTER 30			
		16.07.30 - BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS	
responsi such car is autho	ho Legis ibility to e and wl rized un	L AUTHORITY.  lature has delegated to the Department of Health and Welfare, as the state mental health authori ensure that mental health services are available throughout the state of Idaho to individuals when the certain eligibility requirements under the Regional Mental Health Services Act. This coder the Regional Mental Health Services Act, Title 39, Chapter 31, Idaho Code, as well as Se 14, 56-1004A, 56-1007, and 56-1009, Idaho Code.	o need hapter
001.	TITLE	AND SCOPE.	
	01.	<b>Title</b> . The title of these rules is IDAPA 16.07.30, "Behavioral Health Community Crisis Cent	ters."
crisis ce Idaho.	02. enters in	<b>Scope</b> . These rules establish the benefit and eligibility process for behavioral health comments the state of Idaho. These programs provide behavioral health crisis services to persons residue.	nunity ling in ( )
the inter	dance w rpretation naterials	<b>TEN INTERPRETATIONS.</b> ith Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pern of the rules of this chapter, or to the documentation of compliance with the rules of this clare available for public inspection and copying at cost in the main office of the Department of D West State Street, Boise, Idaho, 83702.	hapter.
	strative a	NISTRATIVE APPEALS.  appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governeedings and Declaratory Rulings."	erning
004. The foll		RPORATION BY REFERENCE. ocuments are incorporated by reference in this chapter of rules.	( )
from the	e Americ	<b>DSM-V</b> . American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disc SM-V), Arlington, VA, American Psychiatric Association, 2013, copies of the manual are available and Psychiatric Association, 1000 Wilson Blvd., Arlington VA 22209-3901. A copy of the manual republic review at the Department of Health And Welfare, 450 West State Street, Boise, Idaho, 8	ailable nual is
		<b>Idaho Behavioral Health Standards</b> . Idaho Behavioral Health Standards, Boise, Idaho, Health and Welfare, 2013. A copy of the manual is available for public review at the Departm fare, 450 West State Street, Boise, Idaho, 83702.	
005. NUMB		E OFFICE HOURS MAILING ADDRESS STREET ADDRESS TELEPH TTERNET WEBSITE.	IONE
	01.	<b>Office Hours</b> . Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday,	except

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holidays designated by the state of Idaho.	( )
<b>02. Mailing Address</b> . The mailing address for the business office Welfare, P.O. Box 83720, Boise, Idaho 83720-0036.	is Idaho Department of Health and
<b>03. Street Address</b> . The business office of the Idaho Department 450 West State Street, Boise, Idaho 83702.	of Health and Welfare is located at ( )
<b>104. Telephone</b> . The telephone number for the Idaho Department 5500.	of Health and Welfare is (208) 334-
<b>05. Internet Websites</b> . The Department internet www.healthandwelfare.idaho.gov.	ebsite is found at <a href="http://">http://</a>
006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECOR	DS ACT COMPLIANCE AND
<b>01. Confidentiality of Records</b> . Any disclosure of confidential is course of the Departments business is subject to the restrictions in state or federal 16.05.01, "Use and Disclosure of Department Records."	nformation used or disclosed in the I law, federal regulation, and IDAPA
<b>O2. Public Records Act</b> . The Department will comply with Section when request for the examination and copying of public records are made. Un records in the custody of the Department are subject to disclosure.	
007 008. (RESERVED)	
009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIRE	EMENTS.
01. Compliance With Department Criminal History and operators, employees, transfers, reinstated former employees, student internsprovide direct care or services, or whose position requires regular contact values provisions in IDAPA 16.05.06, "Criminal History and Background Checks."	s, contractors, and volunteers who
<b>O2.</b> Availability to Work or Provide Service. An individual listed is available to work on a provisional basis at the discretion of the employer submitted his criminal history and background check application, it has been significantly employer or agency, and no disqualifying crimes or relevant records are discloss must be fingerprinted within twenty-one (21) days of submitting his criminal application.	or agency once the individual has gned and notarized, reviewed by the ed on the application. An individual
<b>a.</b> An individual is allowed to work or have access to clients only history and background check is completed.	under supervision until the criminal ( )
<b>b.</b> An individual, who does not receive a criminal history and waiver granted under the provisions in this chapter, may not provide direct care or requires regular contact with clients in a behavioral health community crisis cent	or services, or serve in a position that
03. Waiver of Criminal History and Background Check Der conditional or unconditional denial for a criminal history and background check direct care or services, or serve in a position that requires regular contact community crisis center. A waiver may be granted on a case-by-case basis Department of any underlying facts and circumstances in each individual case crimes listed in Subsection 009.04 of this rule.	, may apply for a waiver to provide with clients in a behavioral health upon administrative review by the
<b>04. No Waiver for Certain Designated Crimes</b> . No waiver will be of the following designated crimes or substantially conforming foreign criminal	

		OF HEALTH AND WELFARE Docket No. 16-073 alth Community Crisis Centers Proposed Rule - New C		
	a.	Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho	Code	e; )
	b.	Incest, as defined in Section 18-6602, Idaho Code;	(	)
	c.	Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code;	(	)
4003, a	<b>d.</b> nd 18-401	Murder in any degree or assault with intent to commit murder, as defined in Sections 18-40 15, Idaho Code;	001, 1	18- )
	e.	Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code;	(	)
	f.	Rape, as defined in Section 18-6101, Idaho Code;	(	)
	g.	Sale or barter of a child, as defined in Section 18-1511, Idaho Code;	(	)
	h.	Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho	Code (	;
	i.	Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code;	(	)
as defin	<b>j.</b> ed in Sec	Inducing individuals under eighteen (18) years of age into prostitution or patronizing a protions 18-5609 and 18-5611, Idaho Code;	ostitu (	ite,
	k.	Any felony punishable by death or life imprisonment; or	(	)
18-306,	<b>l.</b> 18-1701,	Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes.	18-20	)5, )
or any o	other revi	<b>Administrative Review</b> . An administrative review for a waiver may consist of a revupplemental information provided by the individual, a telephone interview, an in-person interview deemed necessary by the Department. The Department may appoint a subcommittee to views provided for under Subsections 009.03 through 009.12 of this rule.	tervie	ew,
fourteer	n (14) cal	Written Request for Administrative Review and Waiver. A written request for a waiver in istrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0026 endar days from the date of the issuance of a denial from the Department's Criminal History (a) day period for submitting a request for a waiver may be extended by the Department for	5 with ry Un	hin nit.
busines	nent will s days fro	<b>Scheduling of Administrative Review</b> . Upon receipt of a written request for a waiv determine the type of administrative review to be held, and conduct the review within this om the date of receipt. When an in-person review is appropriate, the Department will prove the seven (7) days notice of the review date.	rty (3	30)
followi	08.  ng factors	Factors Considered During Administrative Review. During the administrative reviews may be considered:	ew, t	the )
	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;	(	)

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е. Т	The relationship between the incidents and the position sought;		( )
treatment, completi	Activities since the incidents, such as continuous employ ion of a problem-solving court or other formal offender rehabilitation.		
<b>g.</b> A	A pardon that was granted by the Governor or the President;		( )
<b>h.</b> T forms submitted; an	The falsification or omission of information on the self-declar and	ation form and other	supplemental ( )
<b>i.</b> A	Any other factor deemed relevant to the review.		( )
	<b>Administrative Review Decision</b> . A notice of decision will be stays of completion of the administrative review.	e issued by the Depa	artment within
for subsequent requand background ch	Decision to Grant Waiver. The Department's decision to grant uests by an individual for a waiver. A waiver granted under the eck clearance, and is only applicable to services and programs Department programs requiring clearance of a criminal history	nis chapter is not a cr governed under this c	riminal history chapter. It does
	<b>Revocation of Waiver</b> . The Department may choose to revit identifies as a risk to client health and safety, at any time.	oke a waiver at its	discretion for
	Vaiver Decisions are not Subject to Review or Appeal ning a waiver are not subject to review or appeal, administrative		actions of the
suitability for emp background check or risk of the individu	Employer Responsibilities. A waiver granted by the Depa ployment. The employer is responsible for reviewing the even when a clearance is issued or a waiver is granted. Making all to provide direct care services or to serve in a position that re lts is the responsibility of the employer.	results of a crimina g a determination as to	al history and the ability or
	TIONS AND ABBREVIATIONS. These rules, the following terms are used as defined below:		( )
01. A	Adolescent. An individual between the ages of fourteen (14) an	d eighteen (18).	( )
<b>02.</b> A	Adult. An individual eighteen (18) years of age or older.		( )
	<b>Applicant</b> . An adult individual who is seeking crisis serventer who has completed, or has had completed on his behalf, a		
mental health cente serious mental illn provide services to	<b>Behavioral Health Community Crisis Center.</b> An outpatient er that provides evaluation, intervention, and referral for indiversor a serious mental illness with co-occurring substance a client for more than twenty-three (23) hours and fifty-nine (5 ty. The facility must discharge or transfer the client to the approximation of the community of the client to the approximation.	viduals experiencing use disorder. The factors in t	a crisis due to cility may not
05.	Child. An individual under the age of fourteen (14) years.		( )
	<b>Client</b> . A person receiving services through a behavioral health nous with the following terms: patient, participant, resident, co		
	<b>Department</b> . The Idaho Department of Health and Welfare of the mental health authority under Section 39-3124, Idaho Code		Department is

	T OF HEALTH AND WELFARE ealth Community Crisis Centers	Docket No. 16-0 Proposed Rule - New	
08.	Facility. Abehavioral health community crisis cer	nter, or a person authorized to act on its	behalf.
<b>09.</b> submitting a wacheck.	Good Cause. A valid and sufficient reason for itten request for a waiver by an individual who d		
10. the applicant's r	<b>Individualized Service Plan</b> . A written action p needs, strategies for services to meet those needs, tre		t identifies
11. whether an appl	<b>Intake Assessment</b> . The collection of data, analicant is eligible for behavioral health community cri		determine ( )
12. settings, in which individuals experience.	Outpatient Crisis Services. An organized nor ch behavioral health treatment personnel provide pro- eriencing crisis situations.		
011 099.	(RESERVED)		
GENE	RAL PROVISIONS OF BEHAVIORAL HEALT (Sections 100 through		RS
	SSING BEHAVIORAL HEALTH COMMUNIT be accessed by eligible applicants through an app		eligibility
<b>01.</b> the facility. The	<b>Application for Services</b> . An application for serv voluntarily completed application consents further a	ices is completed by the applicant upon assessment of the applicant.	entry into
<b>02.</b> approved instruintake process.	<b>Intake Assessment</b> . The facility will conduct ment. The facility staff will gather information as		
	KE ASSESSMENT. st establish admission criteria that assess the individe those needs.	dual client's needs and the appropriater	ness of the
01.	Eligibility. At a minimum, admission criteria mus	st require that the client:	( )
a.	Be at least eighteen (18) years of age;		( )
<b>b.</b> a co-occurring s	Be medically stable, with the exception of the persubstance use disorder;	son's mental illness or serious mental il	llness with
c.	Have a DSM-V mental health diagnosable conditi	ion; and	( )
d.	Be in need of frequent observation on an ongoing	basis.	( )
established by t eligibility criter	The Facility Determines Eligibility and Capacits who are eligible for behavioral health community facility. The facility may, in its sole discretion, line, or establish the number of persons eligible based ital need, the degree of clinical need, or other factors	nity crisis services through the facili mit or prioritize behavioral health servic I upon such factors as availability of fu	ty will be ces, define

**03.** 

Ineligibility Conditions. An adult who does not meet the requirements under Subsection 101.01 of

Dena	violai i	leanin Community Crisis Cemers	Proposed Rule - New Chapte
disord "Alcol	er alone, nol and	, or developmental disorder alone, may be eli	is services. An adult with a diagnosis of substance usgible for Department services under IDAPA 16.07.17 a 16.04.11, "Developmental Disability Agencies," fo
102.	ELIG	SIBILITY DETERMINATION.	
	01.	Notification of Eligibility Determination	. The facility will determine the adult's eligibility fo

substan	ice use or	developmental disability services.	(	)
102.	ELIGII	BILITY DETERMINATION.		
		<b>Notification of Eligibility Determination</b> . The facility will determine the adult's eligibn community crisis services in accordance with Section 101 of these rules within one (1) take assessment. The written notice will include:		
	a.	Client name and identifying information;	(	)
	b.	A statement of the decision;	(	)
	c.	A concise statement of the reasons for the decision; and	(	)
	d.	Referral to other appropriate community resources, when applicable.	(	)
service	<b>02.</b> s through	<b>Right to Accept or Reject Services</b> . If the facility determines that an applicant is elig the facility, an individual has the right to accept or reject services offered by the facility.	ible f	or )
		<b>Reapplication for Community Crisis Services</b> . If the facility determines that an applicances through the facility, the applicant may reapply after twenty-four (24) hours, or at any time stantial, material change in circumstances.		
if not c	<b>04.</b> linically a	<b>Information that Must be Provided to the Participant</b> . Upon admission, or as soon as ppropriate upon admission, the facility must provide each client with the following:	possib (	le )
	a.	A written statement of client rights which, at a minimum, includes the applicable patient right	ghts;	)
	b.	A copy of the crisis response facility grievance procedure; and	(	)
	c.	The written rules of conduct, including the consequences for violating the rules.	(	)
103.	EMER	GENCY SERVICES.		
determi	<b>01.</b> ined by fat need and	<b>Identification of Emergency Services Needed</b> . If emergency services are clinically necessicility staff, the facility will identify the emergency services that are consistent with the apple a preliminary finding from the intake assessment.	ssary, olican	as t's
agreem	<b>02.</b> ent for cli	<b>Immediate Intervention</b> . The facility must ensure inpatient care is available through a ents in need of a higher level of care.	transf (	er
method	<b>03.</b> ls, by train	<b>Client Management</b> . Use of de-escalation techniques including physical and nonpared staff is permissible.	ohysic (	al (

#### 104. -- 199. (RESERVED)

#### 200. INDIVIDUALIZED SERVICE PLAN.

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**01. Individualized Service Plan.** A service plan will be developed by the facility in collaboration with the client, and may include service providers. This plan will be specific, measurable, and realistic in identification of the goal(s) for crisis stabilization, relevant areas of concern, and desired results as outlined in the Idaho Behavioral Health Standards.

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		<b>Referrals</b> . The facility must make referrals for services that would of the client's discharge. Referrals may include additional treatment assistance securing housing.			
201	205.	(RESERVED)			
	mes for be	OMES FOR COMMUNITY CRISIS CENTERS. chavioral health community crisis centers are measured through the indardized assessment tool.	e administration of a sa	atisfact	ion )
Servic	funds and es are plan ate safety a	F PUBLIC FUNDS AND BENEFITS.  d benefits will be used to provide services for eligible adults unanned and implemented to maximize community integration and the and well-being in his community. Services are individually planned to	e individual's ability t	o prov	ide
208	210.	(RESERVED)			
	behaviora	CAL RECORDS.  al health community crisis center must maintain, control, and somaintaining their quality in accordance with the requirements set forth		ds and	is )
facility	<b>01.</b> y site when	Active Client Records Kept at the Facility Site. The active clie te the client is being treated.	ent's records must be k	cept at	the )
have v		Compilation, Storage, Dissemination, and Accessibility of Clicies and procedures governing the complication, storage, dissemination, storage, dissemin			
autom		Electronic Storage of Client Data. When a facility stores client damation systems, they must have security measures to prevent inadvented to the control of			
five (5	04. ) years fro	<b>Length of Maintenance of Client Records</b> . Client records must be the date they are officially closed.	be maintained for a mi	nimum (	of
212.	CONT	ENTS OF CLIENT RECORDS.			
	01.	Intake Assessment. As defined in Section 101 of these rules.		(	)
	02.	Eligibility Determination. As defined in Section 102 of these rule	es.	(	)
	03.	Service Plan. As defined in Section 200 of these rules.		(	)
	04.	Progress Notes.		(	)
	a.	The facility must maintain progress notes for each client.		(	)
determ	<b>b.</b> nination an	The progress notes must be completed following the intal dupdated by the end of each shift into the client's clinical record.	ake assessment and	eligibil (	lity )
	c.	The progress notes must describe at minimum the following:		(	)
	i.	Client's physical condition;		(	)
	ii.	Mental status;		(	)

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iii.	Involvement in treatment services; and		(	)
iv.	Contain a signature and date of staff member completing the	ne note.	(	)
<b>05.</b> at minimum:	<b>Discharge Summary</b> . A discharge summary must be entered	ed into the client record an	nd will cont	ain )
a.	Client status at discharge;		(	)
b.	Treatment progress;		(	)
c.	Summary of services provided; and		(	)
d.	Referral for further treatment.		(	)
213 249.	(RESERVED)			
Individuals receifor the services phealth communications	CIAL RESPONSIBILITY FOR COMMUNITY CRISIS ving behavioral health community crisis services through the provided. Individuals must complete a "Fee Determination Fity crisis services. The financial responsibility for each sity to pay as determined under Sections 300 and 400 of IDAI (RESERVED)	e Department are responsions. Form" prior to the delivery ervice will be in accord	of behavious of of of of of of the of	ral the