

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.37 - CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-1601

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 Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, 56-1004A.

PUBLIC HEARING SCHEDULE: The public hearing concerning this rulemaking will be held as follows:

Date: Monday, October 17, 2016
Time: 11:00 a.m. (MDT)
Place: Idaho Department of Health and Welfare
Central Office
450 West State Street
3rd Floor Conference Room 3A
Boise, ID

The public may participate in the meeting via teleconference.

To Participate in Conference call: 1-866-906-9888

Participant Passcode: 5082829

The hearing site 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 Department is adopting a new assessment tool in compliance with the Jeff D lawsuit. Language in the eligibility section of this chapter is being revised to allow for implementation of this new tool.

The Department no longer accesses federal child welfare funding for children's mental health services and has adjusted alternate care practices in response to the change in funding. Federal child welfare requirements are no longer applicable and no longer need to be included in the rule.

1. This chapter is being updated to reflect the adoption of the Child and Adolescent Needs and Strengths (CANS) assessment tool as specified in the Jeff D court-approved implementation plan.
2. References to federal child welfare requirements in the Alternate Care sections of the chapter which are no longer applicable are being deleted and the language updated to reflect current practice.
3. Finally, throughout the chapter, "clean-up" changes are being made that make technical or clerical corrections, or minor clarifications of existing language.

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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to the state general fund or any other funds. This rulemaking is intended to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted and was deemed not feasible. These proposed rule changes really only effect the Department and were vetted with Department staff from the effected Divisions. However, the new assessment tool was negotiated with representative stakeholders through the Jeff D mediation and implementation planning process.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact [Stephanie Hoffman](#) at (208) 334-6659.

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 26, 2016](#).

DATED this _____ day of _____, 2016

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0737-1601
(Only Those Sections With Amendments Are Shown.)

003. ADMINISTRATIVE APPEALS.

01. Appeal from a Denial Based on Eligibility Criteria. Administrative appeals from a denial of children's mental health services based on the eligibility criteria under Section ~~4107~~ of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."
(5-8-09)(_____)

02. Appeal of Decision Based on Clinical Judgment. All decisions involving clinical judgment, which may include the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999).
(5-8-09)

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth~~ Fifth Edition, ~~Text Revision~~ (DSM-~~IV-TR~~5), Washington, D.C., American Psychiatric Association, ~~2000~~13, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, ~~1400 K Street, N.W., Washington, DC, 20005~~ 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702.
(5-8-09)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

For the purposes of these rules, the following terms apply: (5-8-09)

01. Alternate Care. Temporary living arrangements outside the family home which may include licensed foster care, residential treatment, and other facilities licensed by the state to provide twenty-four (24) hour care for children in accordance with IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," or IDAPA 16.03.14, "Rules and Minimum Standards for Hospitals in Idaho." (5-8-09)

02. Alternate Care Plan. A ~~federally required~~ component of the treatment plan for children in alternate care. The alternate care plan contains elements related to ~~reasonable efforts~~ the justification of the need for Alternate Care Placement, the provision of treatment plan while in Alternate Care Placement, the child's alternate care provider, ~~compelling reasons for not terminating parental rights, Indian status,~~ education, immunization, medical and other information important to the day-to-day care of the child. ~~An alternate care plan is part of the treatment plan for children placed in alternate care.~~ (5-8-09)()

03. Area(s) of Concern. A circumstance or circumstances that brought a child and family to the attention of the Department. (5-8-09)

04. Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify the child's mental health issues, the child's strengths, the family's strengths, and the service needs. (5-8-09)

05. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. ()

056. Case Management. A change-oriented service provided to families that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (5-8-09)

067. Case Record. Compilation of all electronic and hard copy documentation relating to a child who is receiving or has received children's mental health services including legal documents, identifying information, and assessments. (5-8-09)

078. Child. An individual who is under the age of eighteen (18) years. (5-8-09)

089. Children's Mental Health Services. The children's mental health services are listed under Section 4100 of these rules. These services are provided in response to the mental health needs of children eligible for services under Section 4107 of these rules and their families in accordance with the provisions of the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code. (5-8-09)()

109. Clinician. Any of the direct service personnel with a Master's degree working in regional Children's Mental Health programs, including master's level social workers, psychologists, counselors, and family therapists. (5-8-09)

101. Crisis Intervention. A set of planned activities for a child eligible for services under Section 4107 of these rules designed to reduce the risk of life-threatening harm to self or another person. (5-8-09)()

12. Crisis Plan. As part of the treatment plan, the individualized crisis plan is developed to prevent a crisis or prepare for a crisis situation and to keep the child and others safe. The crisis plan may include the child's trigger behaviors, preferred strategies for resolving a crisis, interventions to be avoided, and contact information of community resources and natural supports. ()

143. Crisis Response. A service for a child that involves immediate actions taken to assess risk or intervene in an emergency as defined in Section 16-2403(6), Idaho Code. A determination of eligibility under Section

~~4~~107 of these rules is not required for crisis response.

~~(5-8-09)~~()

124. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational, and family interventions provided on a regularly scheduled, typically daily, basis. (5-8-09)

135. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State ~~Mental~~ Behavioral Health Authority under Section 39-312~~4~~3, Idaho Code. ~~(5-8-09)~~()

146. Desired Result. Behaviorally-specific description of the child's and family's circumstances when the factors that brought the child and family to the Department's attention, either no longer exist or are significantly reduced. (5-8-09)

157. Director. The Director of the Idaho Department of Health and Welfare or his designee. (5-8-09)

168. Emergency. Emergency, as defined in Section 16-2403(6), Idaho Code, means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, his family or others, or poses a serious risk of substantial deterioration in the child's condition which cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in his family home. (5-8-09)

179. Extended Family Member of an Indian Child. As defined by the law or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (5-8-09)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms apply: (5-8-09)

01. Face-to-Face Contact. An interaction between Department staff and another individual. The interaction may occur in-person or by electronic means that includes both audio and visual technology that comply with HIPAA and 42 CFR Part 2. ()

042. Family. A family is two (2) or more persons related by blood, marriage, or adoption. (5-8-09)

023. Family Support Services. Assistance provided to a family to assist them in caring for a child eligible for services under Section ~~4~~107 of these rules. The purpose of family support services is to strengthen adults in their role as parents through the provision of services including: assistance with transportation, family counseling services, training, education, and emergency assistance funds in accordance with IDAPA 16.06.13, "Rules Governing Emergency Assistance for Families and Children." Family support services must be on the treatment plan. ~~(5-8-09)~~()

034. 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 online at <http://aspe.hhs.gov/poverty/>. (5-8-09)

045. Guardian. (5-8-09)

a. As set forth under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child; or (5-8-09)

b. The Department, an agency, or an individual, other than a parent, who is acting in the place of a parent (in loco parentis) or, has assumed legal responsibility for, legal custody of, or control of a child. (5-8-09)

~~05. Independent Living. Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (5-8-09)~~

06. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 USC 1606. (5-8-09)

07. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (5-8-09)

a. A member of an Indian tribe; or (5-8-09)

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (5-8-09)

08. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

09. Indian Child's Tribe. (5-8-09)

a. The Indian tribe in which an Indian child is a member or eligible for membership; or (5-8-09)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (5-8-09)

10. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 USC 1602(c). (5-8-09)

11. Inpatient Services. Mental health and medical services provided to a child admitted to a psychiatric hospital. (5-8-09)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.

For the purposes of these rules, the following terms apply: (5-8-09)

01. Licensed. Facilities or programs that are licensed in accordance with the provisions of IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," or hospitals licensed in accordance with IDAPA 16.03.14, "Rules and Minimum Standards for Hospitals in Idaho." (5-8-09)

02. Medicaid. Idaho's Medical Assistance Program administered under Title XIX of the Social Security Act. (5-8-09)

03. Outpatient Services. Mental health services provided to a child who is not admitted to a psychiatric hospital or in a residential treatment setting. (5-8-09)

04. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "guardian" is not included in the definition of parent. (5-8-09)

05. Placement Agreement. A standardized, written agreement, signed by the Department and a parent or guardian, that outlines specific responsibilities of each party regarding the child's placement in alternate care. ()

~~**05. P.L. 96-272.** Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (5-8-09)~~

~~**06. P.L. 105-89.** Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (5-8-09)~~

~~**07. Reasonable Efforts.** A court determination that the Department offered or provided services to a family intended to assist a child eligible for services under Section 407 of these rules to remain in the family home, return to the family home, or to finalize a permanency plan. (5-8-09)~~

~~086.~~ **Residential Treatment.** A treatment facility licensed as a children's residential care facility that provides twenty-four (24) hour care in a highly-structured setting delivering substitute parental care and mental health services. (5-8-09)

~~097.~~ **Respite Care.** Time-limited care provided to children. Respite care is utilized in circumstances which require short term, temporary care of a child by a caregiver different from ~~his~~ the child's usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (5-8-09)()

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.

For the purposes of these rules, the following terms apply: (5-8-09)

01. Sliding Fee Scale. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

02. Teens at Risk. Individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance ~~abuse~~, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or ~~a~~ substance ~~abuse~~ ~~disorder~~. (5-8-09)()

03. Teen Early Intervention Specialist. A person with a master's degree in social work, psychology, marriage and family therapy, counseling, chemical dependency, addictive studies, psychiatric nursing, or very closely-related field of study contracted to work with teens at risk. (5-8-09)

~~04. Title IV E. Title IV E under the Social Security Act provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (5-8-09)~~

~~054.~~ **Title XIX (Medicaid).** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (5-8-09)

~~065.~~ **Treatment Foster Care.** A service that provides clinical intervention for children eligible for services under Section ~~4~~107 of these rules within the private homes of trained, licensed foster families. (5-8-09)()

~~076.~~ **Treatment Plan.** ~~A written and signed agreement between the Department and a parent or guardian that serves as the guide for the provision of services.~~ The individualized treatment plan ~~contains~~ describes the child's strengths and needs, short and long-term treatment goals, ~~areas of concern~~, desired ~~results~~ outcomes, and ~~task responsibilities, including payment for services~~ the roles, strategies, resources, and timeframes for coordinated implementation of services and supports. The plan, ~~is~~ developed with the child, when possible, and the child's parent or guardian ~~clearly identifies who does what, when, and how~~. The treatment plan includes a crisis plan and plans for transitioning out of services or to adult services. The treatment plan also includes the alternate care plan, if the child is in alternate care. (5-8-09)()

~~08.~~ **Voluntary Placement Agreement.** ~~A standardized written agreement signed by a parent or guardian and the Department that outlines specific responsibilities of each party and authorizes the Department to place a child in alternate care. (5-8-09)~~

~~097.~~ **Wraparound.** Wraparound is a planning process that brings together a team of professionals and citizens working together to support children eligible for services under Section ~~4~~107 of these rules and their families. Members of the team include the child, family members, representatives of public and private agencies, civic groups, and other community members. The services and supports focus on the strengths of the child and family, are provided in the local community, and are customized to fit the individual culture of the family. (5-8-09)()

014. -- 099. (RESERVED)

~~GENERAL PROVISIONS FOR CHILDREN RECEIVING
MENTAL HEALTH SERVICES AND THEIR FAMILIES~~

~~(Sections 100—399)~~

~~100. GENERAL REQUIREMENTS FOR CHILDREN AND FAMILIES.~~

~~01. Reasonable Efforts. The Department must document services offered or provided to a family to assist a child eligible for services under Section 407 of these rules to remain in the family home, return to the family home, or finalize a permanency plan. The court will make the determination of whether or not the Department's efforts were reasonable. (5-8-09)~~

~~02. Least Restrictive Setting. Whenever possible, the Department will arrange placement: (5-8-09)~~

~~a. In the least restrictive setting available that will meet the child's mental health treatment needs; and (5-8-09)~~

~~b. That is in close proximity to the parent or guardian. (5-8-09)~~

~~c. If the placement does not meet the requirements of Subsections 100.02.a. and 100.02.b. of this rule, the Department will provide written justification to the child's parent or guardian that the placement is in the best interests of the child. (5-8-09)~~

~~03. Visitation for Child's Parent or Guardian. Visitation arrangements will be documented in the alternate care plan. (5-8-09)~~

~~04. Notification of Change in Placement. (5-8-09)~~

~~a. The Department will provide written notification to the child's parent or guardian no later than seven (7) days after a child's change of placement. (5-8-09)~~

~~b. If an Indian child under jurisdiction of the court is relocated to another alternate care setting, similar notice must be sent to the child's Indian custodian, and the child's tribe. Wherever these rules require notice to the parent or custodian and tribe of an Indian child, notice must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310 SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, under 25 CFR Section 23.11, copies of such notices must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice of the proceeding must be given to the Secretary, who will provide notice to the parent or Indian custodian and tribe. (5-8-09)~~

~~101. TREATMENT PLAN DEVELOPMENT.~~

~~01. Development of Treatment Plan. A treatment plan will be completed within fifteen (15) days of the date the child was determined eligible for Children's Mental Health services. The parent or guardian will be given the opportunity to participate in the development of the treatment plan and to sign it. If the services are court ordered and the parent or guardian refuses to sign the plan, the reason for their refusal will be documented on the plan. If the services are voluntary and the parent or guardian refuses to sign the plan, the Department may close the case. (5-8-09)~~

~~02. Annual Development of Treatment Plan. The Department will develop a plan at least annually. The parent or guardian will be given the opportunity to participate in the annual development of the treatment plan and to sign it. (5-8-09)~~

~~03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the family at least once every one hundred twenty (120) days. (5-8-09)~~

~~04. **Goals and Tasks.** Treatment plans must include a long-term goal that identifies specific behavior changes, has measurable desired results, and has specific tasks that identify who, how, and when the tasks will be completed. (5-8-09)~~

~~102.—104. (RESERVED)~~

~~105. **CASE RECORDS:**~~

~~01. **Electronic and Physical Files.** The Department must maintain an electronic file and a physical file containing information on each child receiving children's mental health services. The physical file may include non-electronic documentation such as originals or copies of all court orders, birth certificates, social security cards and assessment information which originates outside the Department. (5-8-09)~~

~~02. **Storage of Records.** All physical case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. (5-8-09)~~

~~a. **Exception for Adoption Records.** Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (5-8-09)~~

~~b. **Exception for Case Records Involving an Indian Child.** A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (5-8-09)~~

~~106.—399. (RESERVED)~~

CHILDREN'S MENTAL HEALTH SERVICES
(Sections **4100** - **4199**)

4100. CHILDREN'S MENTAL HEALTH SERVICES.

The Department is the lead agency in establishing and coordinating community supports, services, and treatment for children eligible for services under Section 4107 of these rules and their families. The following services, as defined under Sections 010 through 013 of these rules, are provided by or through Children's Mental Health field offices in each region: (5-8-09)()

- | | | |
|-----|--------------------------|----------|
| 01. | Assessment. | (5-8-09) |
| 02. | Case Management. | (5-8-09) |
| 03. | Crisis Response. | (5-8-09) |
| 04. | Day Treatment Services. | (5-8-09) |
| 05. | Family Support Services. | (5-8-09) |
| 06. | Independent Living. | (5-8-09) |
| 07. | Inpatient Services. | (5-8-09) |
| 08. | Outpatient Services. | (5-8-09) |
| 09. | Residential Treatment. | (5-8-09) |
| 10. | Respite Care. | (5-8-09) |
| 11. | Treatment Foster Care. | (5-8-09) |

12. Wraparound. (5-8-09)

4101. TEENS AT RISK PROGRAM.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

01. Application. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation. (5-8-09)

02. Contracting Process. (5-8-09)

a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs. (5-8-09)

b. The number of school districts awarded a Teens at Risk program will depend upon the amount of specific funding appropriated by the legislature for this program. (5-8-09)

c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program. (5-8-09)

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

a. Teen arrests, detention, and commitments to state custody; (5-8-09)

b. Teen suicide rates; (5-8-09)

c. Impacts on juvenile mental health and drug courts; (5-8-09)

d. Access to mental health services; and (5-8-09)

e. Academic achievement and school disciplinary actions. (5-8-09)

4102. -- 4104. (RESERVED)

4105. ACCESSING CHILDREN'S MENTAL HEALTH SERVICES.

Children's mental health services may be accessed either through an application for services or through a court order for services. An application for services must be signed by a child's parent or guardian. (5-8-09)

4106. MENTAL HEALTH ASSESSMENT.

Once an application has been signed or a court order has been received for children's mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be documented using the Department's Idaho Standard Mental Health Assessment Report at <http://www.healthandwelfare.idaho.gov>. A Department clinician will either complete a mental health assessment, or, at the Department's discretion, accept an assessment completed by another mental health professional. In order to be considered, assessments completed by other mental health professionals must have occurred within ninety (90) days prior to the date of application or court order. The Department clinician will gather additional information, as needed, in order to complete the assessment process. (5-8-09)

4107. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of children who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (4-7-11)

02. Eligibility Requirements. To be eligible for children's mental health services through a voluntary application to the Department, the applicant must: (5-8-09)

- a. Be under eighteen (18) years of age; (5-8-09)
- b. Reside within the state of Idaho; (5-8-09)
- c. Have a DSM-~~IV-TR~~5 Axis I diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible Axis I diagnosis, although one (1) or more of these conditions may co-exist with an eligible Axis I diagnosis; and (5-8-09)()

d. Have a substantial functional impairment as assessed by using the ~~Child and Adolescent Functional Assessment Scale (CAFAS) or the Preschool and Early Childhood Functional Assessment Scale (PECFAS)~~ Department's approved tool. ~~Substantial functional impairment requires a full eight (8) (CAFAS) or seven (7) (PECFAS) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales:~~ (4-7-11)()

- ~~i. Self-harmful behavior;~~ (5-8-09)
- ~~ii. Moods/emotions; or~~ (5-8-09)
- ~~iii. Thinking.~~ (5-8-09)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code. Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. Parents or guardians retain custody of the child. (5-8-09)()

04. Ineligible Conditions. A child who does not meet the requirements under Subsections 4107.02 or 4107.03 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. (4-7-11)()

~~4108.~~ -- ~~4109.~~ (RESERVED)

~~4110.~~ NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. The Department will determine the child's eligibility for children's mental health services, in accordance with Section ~~4107~~ of these rules, within thirty (30) calendar days of receipt of a signed application for services. Within five (5) working days of the determination of eligibility, the Department will send written notification to the child's parent or guardian of the eligibility determination. The written notice will include: ~~(5-8-09)~~()

- a. The child's name and identifying information; (5-8-09)
- b. A statement of the decision; (5-8-09)
- c. A concise statement of the reasons for the decision; and (5-8-09)
- d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Parental Rights. If the Department determines that an applicant is eligible for children's mental health services through the Department, the Department clinician must inform the child's parent or guardian that they have the right to reject the services offered by the Department, unless imposed by court order. (5-8-09)

03. Other Information that Must be Provided to the Parent. The clinician must also inform the parent that fees may be incurred for certain services, in accordance with IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and that a parent has financial responsibility for the child. (5-8-09)

04. Reapplication for Mental Health Services. If the Department determines that a child is not eligible for children's mental health services through the Department, the child's parent or guardian may reapply after six (6) months or at any time upon a showing of a substantial, material change in circumstances. (5-8-09)

~~4111.~~ -- ~~4114.~~ (RESERVED)

~~4115.~~ TREATMENT PLAN.

A treatment plan will be developed by the Department, a parent or guardian, and the child, if appropriate, and may include the service provider or service providers. This plan will be specific, measurable, and realistic in the identification of the goal(s), relevant areas of concern, and desired results, ~~and will be developed in accordance with the requirements under Section 101 of these rules.~~ ~~(5-8-09)~~()

01. Development of Treatment Plan. A treatment plan will be completed within fifteen (15) days of the date the child was determined eligible for Children's Mental Health services. The parent or guardian will be given the opportunity to participate in the development of the treatment plan and to sign it. If the services are court-ordered and the parent or guardian refuses to sign the plan, the reason for their refusal will be documented on the plan. If the services are voluntary and the parent or guardian refuses to sign the plan, the Department may close the case. ()

02. Annual Development of Treatment Plan. The Department will develop a plan at least annually. The parent or guardian will be given the opportunity to participate in the annual development of the treatment plan and to sign it. ()

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the family at least once every one hundred twenty (120) days. ()

04. Goals and Tasks. Treatment plans must include a long-term goal that identifies specific behavior changes, has measurable desired results, and has specific tasks that identify who, how, and when the tasks will be completed. ()

~~4116.~~ OUTCOMES FOR CHILDREN'S MENTAL HEALTH SERVICES.

Outcomes for children's mental health services are measured through the administration of a satisfaction survey and ~~a~~

the Department-approved standardized functional assessment tool, ~~such as CAFAS or PECFAS.~~ (5-8-09)()

117. CASE RECORDS.

01. Electronic and Physical Files. The Department must maintain an electronic file and a physical file containing information on each child receiving children's mental health services. The physical file may include non-electronic documentation such as originals or copies of all court orders, birth certificates, social security cards and assessment information which originates outside the Department. ()

02. Storage of Records. All physical case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. ()

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. ()

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. ()

~~41178.~~ USE OF PUBLIC FUNDS AND BENEFITS.

Public funds and benefits will be used to provide services for children eligible for services under Section ~~4107~~ of these rules and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, the Department will arrange services to minimize the need for institutional or alternate care placement. Services will be individually planned with the family to meet the unique needs of each child and family. The Department will not require a parent or guardian to relinquish custody of the child in order to receive Department-funded services. (5-8-09)()

~~41189.~~ FINANCIAL RESPONSIBILITY OF PARENT(S).

Parent(s) of a child eligible for services under Section ~~4107~~ of these rules who is receiving outpatient services either directly from the Department or through Department contracts with private providers, are financially responsible for services provided to their child and to their family, including court-ordered children's mental health services. The financial responsibility for each service will be in accordance with the ability of parent(s) to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." Parent(s) will not incur a financial obligation for services provided to their child through a Teens at Risk program. (5-8-09)()

~~41920.~~ SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.

The fee charged to parents for outpatient children's mental health services is determined using the sliding fee schedule under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 300. (5-8-09)

~~41241.~~ FEE DETERMINATION FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.

Prior to the delivery of outpatient services, a "Fee Determination" form must be completed by a child's parent when requesting children's mental health services. The fee determination process includes the considerations found under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 400. (5-8-09)

~~41242.~~ -- ~~4199.~~ (RESERVED)

ALTERNATE CARE PLACEMENT

(Sections ~~5200~~ - ~~5299~~)

~~5200.~~ AUTHORITY FOR ALTERNATE CARE PLACEMENT.

The Department may place a child into alternate care under either of the following conditions in Subsection ~~5200.01~~ or ~~5200.02~~ of this rule: (5-8-09)()

01. Court Order. The Department may place a child into alternate care when the Department has been ordered by the Court to provide alternate care for a child; ~~or.~~ A placement agreement must be developed by the

Department and the parent or guardian prior to the child's placement in alternate care. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks, and task responsibilities. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. If notice is given by the parent or guardian, the Department will notify the court. (5-8-09)()

02. Voluntary Placement. The Department may place a child into alternate care with the Department when a parent or guardian is no longer able to maintain a child eligible for services under Section 4107 of these rules in the child's home and the Department determines that the child would benefit from alternate care and treatment services. A treatment plan, alternate care plan, and a ~~voluntary~~ placement agreement must be developed by the Department and the parent or guardian prior to the child's placement in alternate care. The treatment plan will identify areas of concern, goals, desired ~~results~~ outcomes, time frames, tasks and task responsibilities. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. If notice is given by the parent or guardian, the Department will notify the court. (5-8-09)()

~~a. A voluntary placement agreement entered into between the Department and a parent or the guardian of a minor child may be revoked at any time by the child's parent or guardian.~~ (5-8-09)

~~b. Voluntary alternate care placements exceeding one hundred eighty (180) days, without a judicial determination that it is in the best interests of the child to continue his current placement, cannot be reimbursed by Title IV-E funds. The Department may request the court hold a hearing for the child in accordance with 16-2407(3), Idaho Code.~~ (5-8-09)

5201. PROTECTIONS FOR CHILDREN IN ALTERNATE CARE.

01. Statutory Requirements. The Department must arrange alternate care in accordance with the protections established in: (5-8-09)

~~a. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980," as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997;~~ (5-8-09)

~~b.a.~~ The Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code; (5-8-09)

~~b.b.~~ The Child Protective Act, Title 16, Chapter 16, Idaho Code; and (5-8-09)

~~b.c.~~ The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

02. Requirement for Licensure. A child that is placed in alternate care must be placed in a licensed foster home, licensed residential care facility, or in a licensed hospital. (5-8-09)

03. Out-of-State Placement. Placement of a child in an alternate care setting outside the state of Idaho requires that the Department comply with the Interstate Compact on the Placement of Children, in accordance with Section 16-2102, Idaho Code. (5-8-09)

04. Least Restrictive Setting. Whenever possible, the Department will arrange placement: ()

a. In the least restrictive setting available that will meet the child's mental health treatment needs; and ()

b. That is in close proximity to the parent or guardian. ()

c. If the placement does not meet the requirements of Subsections 201.04.a. and 201.04.b. of this rule, the Department will provide written justification to the child's parent or guardian by way of the Alternate Care Plan that the placement is in the best interests of the child. ()

05. Visitation for Child's Parent or Guardian. Visitation arrangements will be documented in the alternate care plan. ()

06. Notification to Parents or Guardians of Change in Placement. ()

a. The Department will provide written notification to the child's parent or guardian no later than seven (7) days after a child's change of placement. ()

b. If an Indian child under jurisdiction of the court is relocated to another alternate care setting, similar notice must be sent to the child's Indian custodian, and the child's tribe. Wherever these rules require notice to the parent or custodian and tribe of an Indian child, notice must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, under 25 CFR Section 23.11, copies of such notices must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice of the proceeding must be given to the Secretary, who will provide notice to the parent or Indian custodian and tribe. ()

5202. (RESERVED)

5203. DATE A CHILD ENTERED ALTERNATE CARE.

A child is considered to have entered alternate care on the date the child is actually placed in an alternate care setting. All alternate care benefits, eligibility determinations, and required reviews are based on the date the child entered alternate care. (5-8-09)

5204. ~~TITLE IV-E AND~~ TITLE XIX ELIGIBILITY.

Children placed in alternate care through the Department are eligible for ~~Title IV-E funding and~~ Title XIX, if they meet the eligibility requirements as defined in IDAPA 16.06.01, "Rules Governing Family and Children's Services." Application for these programs will be made by Department clinicians on the forms and in the manner prescribed by the Department's Division of Family and Community Services. (~~5-8-09~~)()

5205. ALTERNATE CARE LICENSURE.

All private homes and facilities in Idaho providing alternate care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed, approved, or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. (5-8-09)

5206. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and must include the following: (5-8-09)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's parent or guardian, the child (when appropriate), the clinician and the alternate care provider. (5-8-09)

02. Information for Alternate Care Provider. The Department and the child's parent or guardian must inform the alternate care provider of the alternate care provider's roles and responsibilities in meeting the needs of the child and provide the following information to the alternate care provider: (5-8-09)

a. Any medical, health, and dental needs of the child including the names and addresses of the child's doctor, dentist, and other health providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (5-8-09)

b. The child's current functioning and behaviors; (5-8-09)

c. The child's history, past experiences, and reasons for placement into alternate care; (5-8-09)

d. The child's cultural and racial identity; (5-8-09)

- e. Any educational, developmental, or special needs of the child; (5-8-09)
- f. Names and addresses of the child's current or last school attended, including homeschool or alternate school, if applicable; (5-8-09)
- g. The child's interests and talents; (5-8-09)
- h. The child's attachment to current caretakers; (5-8-09)
- i. The individualized and unique needs of the child; (5-8-09)
- j. Procedures to follow in case of emergency; and (5-8-09)
- k. Any additional information that may be required to meet the needs of the child. (5-8-09)

03. Consent for Medical Care. A parent or guardian must sign a Departmental form of consent for medical care and keep the clinician advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the case record. (5-8-09)

04. Financial Arrangements. The ~~clinician~~ Department is responsible for explaining the financial and payment arrangements to the alternate care provider and must complete the documentation required for payment to the alternate care provider. ~~(5-8-09)~~()

05. Contact Requirements. The child's parent or guardian, the clinician, the alternate care provider, and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits between the child and the family and the clinician or his designee. (5-8-09)

a. Face-to-face contact ~~in the alternate care or treatment setting~~ between the child and the clinician must occur at least monthly. An in-person visit must occur within the first thirty (30) days of placement and then the in-person visits must occur at a minimum of quarterly thereafter. ~~(5-8-09)~~()

b. Face-to-face contact between the child's parent or guardian and the clinician must occur at least monthly. (5-8-09)

c. Face-to-face contact ~~in the alternate care or treatment setting~~ between the alternate care provider and the clinician must occur at least monthly. ~~(5-8-09)~~()

d. Frequent and regular contact between the child, the child's parent or guardian, and other family members will be encouraged and facilitated unless it is specifically determined by the Department not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. (5-8-09)

e. When a child is placed in alternate care in another state, a Department clinician must maintain at least monthly contact with the child, the child's family, and the alternate care provider with whom he has been placed as long as the state of Idaho has the placement responsibility for the child, in accordance with Section 5200 of these rules. The supervising agency in the state where the child is living will be requested to maintain monthly, face-to-face contact with the child and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. ~~(5-8-09)~~()

06. Transition Planning. Planning for transition from alternate care will be developed with all concerned parties. Transition planning will be initiated at the time of placement and completed prior to the child's return home or to another living arrangement. A written Transition Plan is part of the Alternate Care Placement Plan and the Treatment Plan. As part of transition planning, efforts are coordinated by the Department and the parents or guardians to expedite access to community and Department services. ~~(5-8-09)~~()

~~07. Accessing Services. As part of the transition planning, efforts will be coordinated to expedite access to community and Department services. (5-8-09)~~

~~5207. -- 521. (RESERVED)~~

5222. ALTERNATE CARE PLANNING.

Alternate care planning is mandated by the provisions of Sections 471(a)(15) and 475, P.L. 96-272. (5-8-09)

01. Alternate Care Plan Required. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (5-8-09)

a. The purpose of the plan is to facilitate the provision of mental health treatment services and the safe return of the child to his or her own home as expeditiously as possible, or to make other permanent arrangements for the child if such return is not feasible. (5-8-09)

b. The alternate care plan must be included as part of the treatment plan. (5-8-09)

02. Written Alternate Care Plan. The Department must have completed a written alternate care plan within thirty (30) days after a child has been placed in alternate care. (5-8-09)

a. A parent or guardian and the child, to the extent possible, are to be involved in planning, selecting, and arranging the alternate care placement and any subsequent changes in placement. (5-8-09)

b. The alternate care plan must include documentation that a parent or guardian has been provided written notification of: (5-8-09)

i. Visitation arrangements made with the alternate care provider, including any changes in their visitation schedule; (5-8-09)

ii. Any change of placement, when the child is relocated to another alternate care or institutional setting as soon as possible, but no later than seven (7) days after placement; and (5-8-09)

iii. Their right to discuss any changes and to seek recourse if they disagree with any changes in visitation or other alternate care arrangements. (5-8-09)

c. All parties involved in developing the alternate care plan, including the alternate care provider, parent or guardian, and the child, if of appropriate developmental age: (5-8-09)

i. Will be asked by the Department to sign the alternate care plan which includes a statement indicating that they have read and understood the alternate care plan; and (5-8-09)

ii. Will receive a copy of the alternate care plan from the Department. (5-8-09)

~~5223. -- 5235. (RESERVED)~~

5236. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.

In accordance with Sections 56-203B and 16-2406, Idaho Code, parent(s) are responsible for costs associated with the care of their child in alternate care. (5-8-09)

01. Notice of Parental Responsibility. The Department will provide the parent(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (5-8-09)

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. (5-8-09)

a. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental and educational costs. (5-8-09)

b. The Department will refer the parent(s) to the Bureau of Child Support Services for support payment calculation and payment arrangements. (5-8-09)

§237. SUPPORT AGREEMENTS AND SUPPORT ORDERS.

01. Support Agreement for Voluntary Placement. If the placement is voluntary, a parent must sign a support agreement that specifies the amount of support to be paid to the Department, when it is to be paid, and the address to which it is to be paid. (5-8-09)

02. Support Order for Payment of Involuntary Placement Costs. In the case of a court-ordered placement, if no support agreement has been reached with a parent prior to the court hearing, the Department may request the Court hold a support hearing to establish a support order for payment of involuntary placement costs. (5-8-09)

§238. -- §39. (RESERVED)

§240. INSURANCE COVERAGE.

The parent or guardian must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage is available for the child, the parent must acquire and maintain such insurance. (5-8-09)

§241. MEDICAL CARD FOR CHILDREN IN ALTERNATE CARE.

The Department will issue a medical card to cover medical expenses for each child placed in alternate care. (5-8-09)

§242. - §243. (RESERVED)

§244. MEDICAL EMERGENCIES.

In case of serious illness, the alternate care provider must immediately seek medical attention for the child and notify the Department as soon as possible. A parent or guardian, the court in an emergency, or the Department, if it is the guardian of the child, has the authority to consent to major medical care or hospitalization in accordance with Section 39-4504, Idaho Code. (5-8-09)

§245. DENTAL CARE.

Each child age three (3) years or older who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (5-8-09)

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment will be submitted to the state Medicaid dental consultant. (5-8-09)

02. Emergencies. Emergency dental services will be provided for children in alternate care and paid for by the Department, if there are no other financial resources available. (5-8-09)

§246. COSTS OF PRESCRIPTION DRUGS.

The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacies. (5-8-09)

§247. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.

Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (5-8-09)

§248. -- §250. (RESERVED)

§251. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.

Only a parent or guardian of a child in alternate care may authorize drivers' training, provide payment, and sign for drivers' licenses and permits. (5-8-09)

§252. -- §282. (RESERVED)

§283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers:

| Family Alternate Care Payments - Table §283 | | | |
|---|----------------------|----------------------|----------------------|
| Ages | 0-5 | 6-12 | 13-18 |
| Monthly Room and Board | \$274 329 | \$300 366 | \$434 487 |

(5-8-09)()

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (5-8-09)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the foster parents, based upon the Department's determination of the child's needs. (5-8-09)

§284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid under Section §283 of these rules. The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows:

| Additional Family Alternate Care Payments - Table §284 | | |
|--|------------------------|-----------------------|
| Lowest Level of Need | Moderate Level of Need | Highest Level of Need |
| \$90 per month | \$150 per month | \$240 per month |

(5-8-09)()

01. Lowest Level of Need. Ninety dollars (\$90) per month for a child requiring a mild degree of care for documented conditions including: (5-8-09)

- a. Chronic medical problems; (5-8-09)
- b. Frequent, time-consuming transportation needs; (5-8-09)
- c. Behaviors requiring extra supervision and control; and (5-8-09)
- d. Need for preparation for independent living. (5-8-09)

02. Moderate Level of Need. One hundred fifty dollars (\$150) per month for a child requiring a moderate degree of care for documented conditions including: (5-8-09)

- a. Ongoing major medical problems; (5-8-09)

b. Behaviors that require immediate action or control; and (5-8-09)

c. Alcohol or other substance use disorder. (5-8-09)

03. Highest Level of Need. Two hundred forty dollars (\$240) per month for a child requiring an extraordinary degree of care for documented conditions including: (5-8-09)

a. Serious emotional or behavioral disorder that requires continuous supervision; (5-8-09)

b. Severe developmental disability; and (5-8-09)

c. Severe physical disability such as quadriplegia. (5-8-09)

04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)

~~5285~~. -- 599. (RESERVED)

600. TREATMENT FOSTER CARE.

A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children eligible for services under Section ~~4107~~ of these rules is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgment of the Department. (~~3-29-10~~) ()

01. Qualifications. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-29-10)

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; (5-8-09)

b. Complete Department-approved treatment foster care initial training; and (5-8-09)

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-29-10)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-29-10)

ii. Demonstrated cooperation and a positive working relationship with families and providers of mental health services. (3-29-10)

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (3-29-10)

03. Availability. At least one (1) treatment foster parent in each treatment family home must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-29-10)

04. Payment. The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month per child, which includes the monthly payment rate specified in Sections ~~5283~~ and ~~5284~~ of these rules. The payment will be made to treatment foster parents in accordance with a contract with the

Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.06 of this rule.

(3-29-10)()

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency.

(5-8-09)

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible for each child in their care. This plan is incorporated as part of the treatment plan identified in Section 1015 of these rules.

(3-29-10)()

601. -- 699. (RESERVED)

700. RESIDENTIAL CARE FACILITIES.

Residential care facilities provide a more intensive setting than treatment foster care. Residential care facilities in Idaho are licensed under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing" to provide residential care for children and staffed by employees who cover assigned shifts. Children placed in residential care facilities receive services that may include the following: assessment, supervision, treatment plan development and implementation, documentation, behaviorally focused skill building, service coordination or clinical case management, consultation, psychotherapy, psychiatric care, and twenty-four (24) hour crisis intervention. Placement into a residential care facility for children eligible for services under Section 4107 of these rules is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs.

(5-8-09)()

01. Prior Authorization. Prior authorization must be obtained from an authorized representative in the Department's Division of Behavioral Health for placement of a child in a residential care facility where the Division of Behavioral Health is making full or partial payment.

(5-8-09)

02. Payment. When care is purchased from private providers, payment will be made in accordance with a contract authorized by the Department, based on the needs of each child being placed and the services to be provided.

(5-8-09)

701. -- 799. (RESERVED)

800. SIX-MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENTS.

~~When a judicial~~ A review ~~does not~~ is to occur at the end of a six (6) month period for any child in an alternate care placement. ~~The Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the treatment plan focuses on the goals of safety, permanency, effectiveness of treatment, and well-being of the child. The Department may request the court hold a review hearing for the child in accordance with Section 16-2407(3), Idaho Code.~~

(5-8-09)()

01. Notice of Six-Month Review. The parent or guardian, foster parent of a child, ~~or~~ or relative providing care for the child ~~or any preadoptive parent are~~ is to be provided with notice of their right to be heard in the six-month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, ~~preadoptive parent,~~ or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice.

(5-8-09)()

02. Procedure in the Six-Month Review. The parties who received notice will be given the opportunity to participate in the case review.

(5-8-09)

03. Members of Six-Month Review Panel. The six-month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent or guardian. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from an authorized representative in the Department's Division of Behavioral Health, to enable them to understand the review process and their roles as participants.

(5-8-09)

04. Considerations in Six-Month Review. Whether conducted by the court in a review hearing or a Department review panel, under state law, federal law and regulation, each of the following must be addressed in a six-month review: (5-8-09)

- a. Determine the extent of compliance with the treatment plan; (5-8-09)
- b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-8-09)
- c. Review compliance with the Indian Child Welfare Act, when applicable. (5-8-09)
- d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-8-09)
- e. Project a date by which the child may be returned and safely maintained at home or placed for adoption, guardianship, or other permanent placement. (5-8-09)

05. Recommendations and Conclusions of Six-Month Review Panel. Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. (5-8-09)

~~**801. PERMANENCY HEARINGS FOR CHILDREN IN ALTERNATE CARE PLACEMENTS.**~~

~~Under Public Law 105-89, Adoption and Safe Families Act, and Idaho Code, every child in alternate care under state supervision must have a permanency hearing conducted by the court or a court designee. Permanency hearings must be held no later than twelve (12) months after the date of the child's placement in alternate care and no later than every twelve (12) months thereafter while the child remains in alternate care. A twelve (12) month permanency hearing will be held by the court having jurisdiction in the case, if that is the preference of the court. If the court does not wish to conduct this hearing, the court may appoint a hearing officer. The appointed hearing officer may not be supervised or reimbursed by the Department.~~ (5-8-09)

~~**01. Department Request for Permanency Hearing.** The Department may request the court hold a permanency hearing for a child in accordance with Section 16-2407(3), Idaho Code.~~ (5-8-09)

~~**02. Attendance at Permanency Hearings.** The permanency hearing includes, at a minimum, the child's parent or guardian, foster parent of a child, and any preadoptive parent or relative providing care for the child. In the case of an Indian child, the child's tribe and Indian custodian (if there is one), must also be included in the permanency hearing. Parties will be provided, by the court, with written notice of the hearing and of their right to be heard. This is not to be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the hearing solely on the basis of the receipt of such notice.~~ (5-8-09)

~~**03. Judicial Determinations.**~~ (5-8-09)

~~**a.** The court, or an officer designated by the court, will determine if the Department has made reasonable efforts to finalize a permanency plan for the child and issue an order specifying the permanency plan.~~ (5-8-09)

~~**b.** In cases where the Department has documented, in the alternate care plan component of the treatment plan, compelling reasons for not terminating the parent and child relationship, the court reviews and determines if the compelling reasons exist.~~ (5-8-09)

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