

Children’s System Redesign Draft Rules for Review

Please review the following set of draft rules and post your comments in the “Draft Rules Feedback Form”. Throughout the document you will see comment boxes. These comment boxes address areas still under development, modifications we have made based on provider and family feedback, and notes when a reference is made to another chapter of rules. We would appreciate your feedback specific to the highlighted areas, but your feedback does not need to be limited to these areas. We welcome comments on any portion of the rule that you feel is important.

The attached set of draft rules is 2 out of 3 that will be posted. The remaining rules will be posted throughout the week of July 6 – 9:

1) **Children’s HCBS State Plan Option Services (Posted)**

2) **Children’s Waiver Services**

This section of rules describes the new benefit package for children with developmental disabilities who also meet ICF/MR level of care. Approximately 85% of children receiving current DD benefits will meet this level of care criteria. The services are being offered under a new federal authority, section 1915(c) of the Social Security Act. This authority allows a state more flexibility to provide services targeted to a specific population with more intensive needs.

This draft section of rules describes the new services that will be available to children in two target groups:

- 1) Children age birth through 17 meeting ICF/MR level of care.
- 2) Children age 3 through 6 meeting ICF/MR level of care with Autism or Maladaptive Behaviors.

The services for both target groups will include:

- Respite
- Habilitative Supports
- Family Education
- Intervention
- Therapeutic Consultation
- Crisis Intervention

Children enrolled in the age 3 through 6 Waiver will have access to intensive intervention services based on evidence-based research, and will be required to follow a more structured program in comparison to the other waiver.

3) **Coordination of children’s DD benefits (coming soon)**

IDAPA 16.03.10.680 - 686

680. CHILDREN WITH DEVELOPMENTAL DISABILITIES (DD) WAIVER SERVICES.

Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible children to prevent unnecessary institutional placement, provide for the greatest degree of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For a participant to be eligible the Department must find that the participant requires services due to a developmental disability that impairs their mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/MR. ()

681. CHILDREN'S DD WAIVER SERVICES: DEFINITIONS.

Definitions in section 661 of the rules apply. Additionally, the following definitions apply to children's DD waiver services:

- **This subsection is used to define services and terms that are relevant to this particular section of rule. As you read through the draft rules, please make suggestions for what should be defined under "Definitions" to ensure the reader is able to clearly interpret the language.**

682. CHILDREN'S DD WAIVER SERVICES: ELIGIBILITY.

Waiver eligibility will be determined by the Department as described in Section 509 of these rules. The participant must be financially eligible for Medical Assistance as described in IDAPA 16.03.05, "Rules Governing Eligibility for Aid for the Aged, Blind, and Disabled (AABD)," Section 787. The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, waiver participants must meet the following requirements: ()

01. Age of Participants. The following waiver programs are available for children: ()

a. Children's DD Waiver. Children's DD waiver participants must be birth to seventeen (17) years of age. ()

b. Early Waiver. Early intervention waiver participants must be three (3) through six (6) years of age. ()

02. Eligibility Determinations. The Department must determine that: ()

a. The participant would qualify for ICF/MR level of care as set forth in Section 584 of these rules, if the waiver services listed in subsection 683 of these rules were not made available; and ()

b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the person-centered planning team; and prior to any denial of services on this basis, be determined by the plan developer that services to correct the concerns of the team are not available. ()

c. The average annual cost of waiver services and other medical services to the participant would not exceed the average annual cost to Medicaid of ICF/MR care and other medical costs. ()

d. Following the approval by the Department for services under the waiver, the participant must receive and continue to receive a waiver service as described in these rules. A participant who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. ()

03. Additional Early Waiver Requirements. In addition to the requirements listed in Subsections 682.01 and 682.02 of this rule, children must have the following characteristics to qualify for Early Waiver services: ()

a. An autism spectrum diagnosis; or ()

Comment [LE1]: What terminology would you like to have defined in this subsection?

Comment [LE2]: This is referring to the HCBS state plan option services section that is posted for feedback. Currently, no definitions are listed.

Comment [LE3]: NOTE: This is referring to current Medicaid eligibility. Medicaid eligibility is not changing under the Redesign.

Comment [LE4]: What should this waiver program be called? Some suggestions include: Act Early Waiver.

Comment [LE5]: NOTE: This is referring to current ICF/MR eligibility. ICF/MR eligibility is not changing under the Redesign.

Comment [LE6]: Should this be just autism or all spectrum disorders?

b. Self-injurious, aggressive or severely maladaptive behavior as evidenced by a General Maladaptive Index score of minus twenty-two (-22) or below on the Scales of Independent Behavior - Revised (SIB-R) or other behavioral assessment indicators identified by the Department; and ()

c. A severe deficit, defined as having a composite full scale functional age equivalency of fifty percent (50%) or less of chronological age. ()

04. **Children's Waiver Eligible Participants.** A participant who is determined by the Department to be eligible for services under the Children's waivers may elect to not utilize waiver services but may choose admission to an ICF/MR. ()

05. **Home and Community-Based Waiver Participant Limitations.** The number of Medicaid participants to receive waiver services under the children's waivers for participants with developmental disabilities will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after June 30th of each new waiver year. ()

683. CHILDREN'S DD WAIVER SERVICES: COVERAGE AND LIMITATIONS.

All children's DD waiver services must be identified on an Action Plan developed by the family-centered planning team, including the plan developer. The following services are reimbursable when provided in accordance with these rules:

01. **Respite.** Respite services are defined in section 663 of these rules. ()

02. **Habilitative Supports.** Habilitative supports are defined in section 663of these rules. ()

03. **Family/Professional Training.** Family/professional training is professional assistance to families or direct service providers to help them better meet the needs of the waiver participant. ()

a. Family/professional training is provided to families and direct staff to meet the specific needs of the waiver participant as outlined in the Action Plan, and may include but is not limited to:

- i. Health and medication monitoring
- ii. Positioning and transfer
- iii. Basic and advanced instructional techniques
- iv. Positive Behavior Support
- v. Use of equipment

b. Family/professional training must be provided to the participant's parent/legal guardian or the direct service provider when the participant is present.

c. The family/professional training provider must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the Action Plan. ()

d. Professional training between a habilitative interventionist and a therapeutic consultant is not a reimbursable service.

e. Professional training between employees of the same discipline is not a reimbursable service.

f. The parent/legal guardian of the waiver participant is required to participate in family training when the participant is receiving habilitative interventions. The following applies for each waiver:

Comment [LE7]: NOTE: It is not our intention to use waiting lists. It is a federal requirement for a state to project the number of participants and this number can be amended.

Comment [LE8]: Is this a reasonable requirement?

i. For participants enrolled in the Children’s DD Waiver the amount, duration, and frequency must be determined by the interdisciplinary team and the parent/legal guardian, and must be listed as a service on the Action Plan. ()

ii. For participants enrolled in the Early Waiver, the parent/legal guardian will be required to participate in intervention services for at least 20 percent of the intervention time provided to the child. ()

Comment [LE9]: How should “participation” be defined?

04. **Habilitative Intervention Evaluation.** The habilitative interventionist must complete an evaluation prior to the initial provision of habilitative intervention services. The evaluation must include:

Comment [LE10]: What components should be included in the evaluation for intervention services?

- a. Comprehensive developmental assessment reflecting the child’s current status;
- b. Specific skills assessment; and
- c. Functional behavioral assessment.

05. **Habilitative Intervention.** Habilitative Intervention services are provided to improve a child’s competencies and discourage problem behavior. Services include individual or group behavioral interventions and skill development activity. Habilitative Interventions must place emphasis on the development of desirable adaptive behaviors rather than merely the elimination or suppression of undesirable behavior. These interventions: ()

a. Produce measurable outcomes that diminish behaviors that interfere with the development and use of language and appropriate social interaction skills; or ()

b. Broaden an otherwise severely restricted range of interest; and ()

c. Increase the child’s ability to participate in other therapies and environments; and ()

d. Must be based upon the well-known and widely regarded principles of evidence-based treatment. Evidence-based treatment (EBT) refers to the use of mental and behavioral health interventions for which systematic empirical research has provided evidence of statistically significant effectiveness as treatments for specific problems. As “promising practices” meet statistically significant effectiveness, they could be included as approved approaches. ()

e. **Settings.** Habilitative Intervention must be provided in the participant’s home or community setting, and in addition may be provided in a center-based setting. ()

f. **Group Interventions.** When habilitative intervention is provided as group intervention, the following applies: ()

i. When group intervention is center-based, there must be a minimum of one (1) qualified staff providing direct services for every three (3) participants. ()

Comment [LE11]: What is the appropriate staff to participant ratio for group center intervention?

ii. When group intervention is community or home-based, there must be a minimum of one (1) qualified staff providing direct services for every three (3) participants. ()

Comment [LE12]: What is the appropriate staff to participant ratio for group home and community intervention?

iii. Group intervention must be directly related to meeting the needs of the child, and be identified as an objective in accordance with an Action Plan goal. ()

06. **Therapeutic Consultation.** Therapeutic Consultation is provided when a participant receiving habilitative intervention has been assessed as requiring a more sophisticated level of training and assistance. The therapeutic consultant assists the habilitative interventionist by: ()

a. Performing advanced assessments; ()

b. Developing and overseeing the implementation of a positive behavior support plan; ()

- c. Monitoring the progress and coordinating the implementation of the plan across environments; and
- d. Providing consultation to other service providers and families. ()

e. **Therapeutic Consultation Services Limitations.** Therapeutic consultation providers are subject to the following limitations: ()

- i. Therapeutic Consultation cannot be provided as a direct intervention service. ()
- ii. Participants must be receiving habilitative intervention services prior to accessing therapeutic consultation, with the exception of crisis situations authorized by the Department. ()
- iii. Therapeutic Consultation is limited to twelve (12) hours per year per participant.

07. Crisis Intervention. Crisis intervention services provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a participant. These services also provide emergency back-up involving the direct support of the participant in crisis. ()

a. Children’s crisis intervention services are provided in the home or other placement authorized by the Department. ()

b. Children’s crisis intervention services must be prior authorized by the Department. ()

c. **Other placement authorized by the Department.** Crisis intervention may be provided in a placement other than the participant’s home when the Department determines the health and safety of the participant and/or family is at risk. The Department may authorize the following placement for crisis intervention: ()

Comment [LE13]: What short-term, out of home placements should be allowed?

08. Family Directed Community Supports. Participants eligible for children’s waiver services may choose to family-direct their individualized budget rather than receive the traditional services described in this section of rule. The requirements for selecting and participating in this option are outlined in [IDAPA 16.03.13 “Consumer Directed Services”](#). ()

Comment [LE14]: The Family-Directed Task Force opted to develop a system based off of the adult self-direction model, with minor modifications to accommodate children and their families. Those differences include:
 -A qualified parent may act as the unpaid support broker
 - All support brokers are required to attend initial training
 - Support brokers must assist participants as they transition to the adult program.

 Please make comments to this chapter of rules keeping in mind these modifications will be made for family-direction.

09. Service limitations. Children’s waiver services are subject to the following limitations: ()

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

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

b. Medicaid Waiver services cannot be used to pay for special education and related services that are included in a child’s Individual Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA). The funding of such services is the responsibility of state and local education agencies. ()

c. Children’s waiver services are subject to the participant’s individualized budget determined during the eligibility process. ()

10. DDA Services. Each DDA is required to provide habilitative supports to Medicaid waiver participants. In addition, the DDA may also opt to provide habilitative intervention, therapeutic consultation, family/professional training, and crisis intervention. When a DDA opts to provide habilitative intervention services, the DDA must also provide respite, habilitative supports, and family/professional training. ()

684. CHILDREN'S DD WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. Authorization of Services on a Written Plan. All children's waiver services must be identified on the plan of service and authorized by the Department. The plan of service must be reviewed by a plan developer at least every six (6) months or at a frequency determined by the family-centered planning team. ()

02. General Requirements for Program Documentation. Each children's DD waiver provider must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant the following program documentation is required: ()

a. Direct Service Provider Information which includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: ()

i. Date and time of visit; and ()

ii. Services provided during the visit; and ()

iii. A statement of the participant's response to the service, if appropriate to the service provided, including any changes in the participant's condition; and ()

iv. Length of visit, including time in and time out, if appropriate to the service provided; and ()

v. Place of service. ()

b. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. ()

03. Intervention Services Documentation Requirements.

For each participant receiving habilitative intervention services, the DDA must develop an intervention plan to determine objectives to be included on the participant's required plan of service. All intervention plan objectives must be related to a goal on the participant's plan of service. The intervention plan must be written and implemented within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the intervention plan is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. The intervention plan must include the following requirements: ()

a. Name. The participant's name. ()

b. Baseline Statement. A baseline statement addressing the participant's skill level and abilities related to the specific skill to be learned. ()

c. Objectives. Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required Action Plan or IFSP. ()

d. Written Instructions to Staff. These instructions may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. ()

Comment [LE15]: The 14 day timeframe is the current requirement for program implementation plans. Should this change?

e. **Service Environments.** Identification of the type of environment(s) where services will be provided. For community environments, a location must be specifically defined within the community to meet this requirement. ()

f. **Target Date.** Target date for completion. ()

g. **Supervisor Approval.** The intervention plan must be reviewed and approved by the DDA clinical supervisor. ()

04. **Reporting Requirements.** The DDA must complete six (6) month and annual reviews for services provided. Documentation of the six (6) month and annual reviews must be submitted to the plan developer, and must include:

Comment [LE16]: What should be included in the 6 month and annual reviews? Is this a reasonable timeframe?

05. **Provider Responsibility for Notification.** It is the responsibility of the service provider to notify the plan developer when any significant changes in the participant's condition are noted during service delivery. Such notification will be documented in the service record. ()

06. **Records Maintenance.** In order to provide continuity of services, when a participant changes service providers, plan developers, or service coordinators, all of the foregoing participant records will be delivered to and held by the Department until a replacement service provider, plan developer, or service coordinator is selected by the participant. When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. ()

07. **Additional Requirements for Participants Birth to Three Years of Age.**

Comment [LE17]: The DDA certification rules had specific documentation requirements pertaining to Infant Toddler Program. Is there a need for additional requirements for the services in this section of rule?

685. CHILDREN'S DD WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. ()

01. **Respite.** Providers of respite must meet the requirements in section 665 of these rules. ()

02. **Habilitative Supports.** Providers of habilitative supports must meet the requirements in section 665 of these rules. ()

03. **Family/Professional Training.** Providers of family/professional training must meet the following requirements: ()

- a. Occupational Therapist;
- b. Physical Therapist;
- c. Speech-Language Pathologist;
- d. Advanced Registered Nurse Practitioner;
- e. Physician Assistant;
- f. Licensed Psychiatrist;
- g. Habilitative Intervention provider as defined in subsection 685.04 of these rules;
- h. Therapeutic Consultation provider as defined in subsection 685.05 of these rules.

04. **Habilitative Intervention.** Habilitative intervention must be provided by a DDA capable of

supervising the direct services provided. Providers of habilitative intervention must meet the following minimum qualifications: ()

a. Must hold at least a bachelor's degree in a health, human services, educational, behavioral science, or counseling field from a nationally accredited university or college; and ()

b. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities; and ()

c. Must demonstrate competencies related to the requirements to provide habilitative intervention; and ()

d. Must complete a supervised practicum; or ()

e. ()

05. Therapeutic Consultation. Therapeutic consultation may be provided by an agency certified as a DDA or by an independent Medicaid provider under agreement with the Department. Providers of therapeutic consultation must have, at a minimum, one or more of the following credentials: ()

a. Doctoral or Master's degree in psychology, education, or related discipline with 1500 hours of relevant coursework and/or training in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, and/or behavior analysis (may be included as part of degree program); and ()

b. Two years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior; or ()

c. Licensed Psychiatrist; ()

d. Licensed Physician; ()

e. Psychologist; ()

f. Clinical Social Worker; ()

g. Clinical Professional Counselor; ()

h. Marriage and Family Therapist; ()

i. Professional Counselor whose provision of services is supervised in compliance with IDAPA 24.15.01 "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; ()

j. Licensed Masters Social Worker whose provision of services is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; ()

k. Licensed Associate Marriage and Family Therapist whose provision of services is supervised as described in IDAPA 25.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; ()

l. Psychologist Extender, registered with the Bureau of Occupational Licenses whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"; ()

m. Certified Psychiatric Nurse; ()

Comment [LE18]: The following was the proposed qualifications for the interventionist.

a. Possess a master's degree in: special education, early childhood special education, speech and language pathology, applied behavior analysis, psychology, physical therapy, occupational therapy, social work, therapeutic recreation, or related discipline and has:

i. One year experience providing care to children with developmental disabilities; and

ii. Completed a competency course approved by the Department that relates to the job requirements of a habilitative interventionist; or

b. Possess a bachelor's degree in: special education, early childhood special education, speech and language pathology, applied behavior analysis, psychology, physical therapy, occupational therapy, social work, therapeutic recreation, or related discipline and has:

i. Two years experience providing care to children with developmental disabilities; and

ii. Completed a competency course approved by the Department that relates to the requirements of a Habilitative interventionist; and

iii. Completed a supervised practicum.

Based on feedback from the open houses, we are proposing these new qualifications in its place.

Comment [LE19]: How can staff demonstrate competencies for this position?

Comment [LE20]: What should a supervised practicum include?

Comment [LE21]: It is our intention to maintain current professionals for the new services. How can this be accomplished?

Comment [LE22]: At the open houses we received feedback that this is too broad. If you agree, how would you define this differently?

Comment [LE23]: At the open houses we received feedback that Marriage and Family Therapist should be removed from this list. What do you think?

Comment [LE24]: At the open houses we received feedback that certified psychiatric nurse should be removed from this list. What do you think?

- n. Board Certified Behavior Analyst (BCBA). ()
- 06. Crisis Intervention.** Providers of crisis intervention must meet the following qualifications: ()
 - a. Doctoral or Master’s degree in psychology, education, or related discipline with 1500 hours of relevant coursework and/or training in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, and/or behavior analysis (may be included as part of degree program); and ()
 - b. Two years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior; or ()
 - c. Licensed Psychiatrist ()
 - d. Licensed Physician ()
 - e. Psychologist ()
 - f. Clinical Social Worker ()
 - g. Clinical Professional Counselor ()
 - h. Marriage and Family Therapist ()
 - i. Professional Counselor whose provision of services is supervised in compliance with IDAPA 24.15.01 “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists”; ()
 - j. Licensed Masters Social Worker whose provision of services is supervised as described in IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners”; ()
 - k. Licensed Associate Marriage and Family Therapist whose provision of services is supervised as described in IDAPA 25.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists”; ()
 - l. Psychologist Extender, registered with the Bureau of Occupational Licenses whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, “Rules of the Idaho State Board of Psychologist Examiners”; ()
 - m. Certified Psychiatric Nurse; ()
 - n. Board Certified Behavior Analyst (BCBA) ()
 - o. Emergency intervention technician providers must meet the minimum habilitative support provider qualifications described under section 665 of these rules. ()
 - p. Crisis intervention providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Criminal History and Background Checks.” ()
- 07. Service Supervision.** The plan of service which includes all waiver services is monitored by the plan developer. ()
- 08. Requirements for Collaboration With Other Providers.** Providers of home and community based services must coordinate regularly with the family-centered planning team as specified on the Action Plan. ()
 - a. **Results of the Psychological or Psychiatric Assessment.** When a participant has had a

Comment [LE25]: At the open houses we received feedback that Marriage and Family Therapist should be removed from this list. What do you think?

Comment [LE26]: At the open houses we received feedback that certified psychiatric nurse should be removed from this list. What do you think?

Comment [LE27]: This is referring to the HCBS state plan option services section that is posted for feedback.

psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to assure therapies provided in the DDA accommodate the participant's mental health needs and to assure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. ()

09. Requirements for Quality Assurance. Providers of children's DD waiver services must demonstrate high quality of services through an internal quality assurance review process.

Comment [LE28]: Agencies must be able to show they are identifying and correcting deficiencies on their own services. What should be required to ensure this is accomplished?

686. CHILDREN'S DD WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. Fee for Service. Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. ()

02. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. ()

03. Rates. The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. ()