

IDHW MODIFIES RULES TO ADDRESS THE PUBLIC HEALTH CRISIS

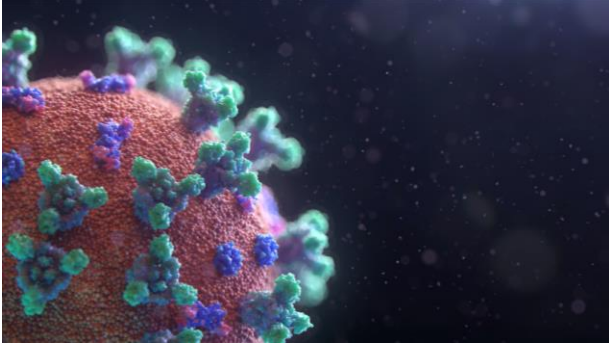


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Governor Little signed an emergency declaration to aid in the COVID-19 response effort in Idaho. Although the Governor is currently lifting some restrictions, the emergency declaration continues. Under Section 46-1008(5)(a), Idaho Code, the Governor may suspend the provisions of any regulations that would in any way prevent, hinder, or delay necessary action in coping with the emergency.

The public health crisis has resulted in numerous changes to the Medicaid program and how people with disabilities utilize program services. Some services have all but stopped. Some agencies have had to close their doors. And many participants are choosing to forego services they used previously because of the risk of infection.

The Department of Health and Welfare (IDHW) has recognized these realities, and modified some of the rules governing DD and waiver services.

The rule changes that directly affect annual assessment, reassessment, budgeting and planning are set out below.

Not listed are other rules changes that address other aspects of the DD services and waiver programs.



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IDHW requested that the following rules be waived or suspended to facilitate the state's response to the current emergency:

16.03.10.319.01(c) HCBS – Termination of participant enrollment in waiver program when federal requirements, including “at least an annual determination of eligibility,” are not met. **SUSPENDED.**

DHW request: Due to impacts from the further spread of this virus, there could be delays in meeting the requirements in this rule section, which include gathering groups of people together, which CDC currently advises against. Participants shouldn't lose eligibility due to these limitations. To maintain program eligibility for previously approved participants, Medicaid requests suspension of this subpart. By suspending this rule, IDHW will not be required to terminate the eligibility of a participant who does not have an annual reassessment as a result of COVID-19 and the suspension of the redetermination requirement during the emergency. This will also reduce IDHW administrative burden once participant obtains reassessment after the emergency.

16.03.10.319.03(b-c). HCBS – Termination of participant enrollment when participant does not use services or fails to participate in person centered planning. **SUSPENDED.**

DHW request: Due to impacts from the further spread of this virus, there could be delays in meeting the requirements in this rule section, which include gathering groups of people together, which CDC currently advises against. Participants shouldn't lose eligibility due to these limitations. To maintain program eligibility for previously approved participants, Medicaid requests suspension of these subparts. By suspending this rule, IDHW will not be required to terminate the eligibility of a participant who elects not to use services offered under the HCBS waiver or State Plan option, or who declines to engage in person-centered planning as a result of COVID-19. This will also reduce IDHW administrative burden once participant resumes services or engages in person-centered planning after the emergency.

16.03.10.323.01(d). Participant eligibility terminated if services are not used for 30 consecutive days. **SUSPENDED.**

DHW request: Due to provider shortages or other limitations related to expansion of this crisis, participants should not lose access to services for not using them due to no fault of their own.

16.03.10.509.02. Annual Assessment. Requires annual assessment at time of annual eligibility determination, 60 days before end of plan year. **SUSPENDED.**

DHW Request: To facilitate social distancing Medicaid requests suspension of this subpart. By suspending this rule, IDHW will be able to delay face-to-face re-evaluation meetings between the assessor and the participant and/or assessment respondent until the emergency is over. If an annual re-evaluation is scheduled during the emergency period, IDHW will (with participant's consent) extend authorization for their existing plan of service and will conduct the re-evaluation once the emergency has ended.

16.03.10.512.03. Determination of DD Eligibility. Requires annual review of med/soc. **SUSPENDED.**

DHW Request: To facilitate social distancing, Medicaid requests suspension of the following language within this subpart: "and must be reviewed annually to assure it continues to reflect accurate information about the participant's status." By suspending this portion of the rule, IDHW will be able to delay face-to-face re-evaluation meetings between the assessor and the participant and/or assessment respondent until the emergency is over. If an annual re-evaluation is scheduled during the emergency period, IDHW will (with participant's consent) extend authorization for their existing plan of service and will conduct the re-evaluation of the "Medical Social and Developmental History" once the emergency has ended.

16.03.10.512.04. Determination of DD Eligibility. Requires annual review using Department assessment tool. **SUSPENDED.**

DHW Request: To facilitate social distancing, Medicaid requests suspension of the following language within this subpart: "and must be reviewed annually to assure it continues to reflect the functional status of the participant." By suspending this portion of the rule, IDHW will be able to delay face-to-face re-evaluation meetings between the assessor and the participant and/or assessment respondent until the emergency is over. If an annual re-evaluation is scheduled during the emergency period, IDHW will (with participant's consent) extend authorization for their existing plan of service and will conduct the re-evaluation once the emergency has ended.

16.03.10.512.05(a). Plan monitoring. Amended to allow required 90 day "face to face" contact to include "synchronous interaction telehealth." **AMENDED.**

16.03.10.513.12(a). Plan of Service. Requires annual plan authorization. **SUSPENDED.**

DHW Request: To facilitate social distancing, Medicaid requests suspension of this subpart. By suspending person-centered planning process (i.e. no PCP team meetings). IDHW intends to issue additional guidance to service coordinators reminding them of their remaining obligation to review service plan under IDAPA 16.03.10.727.02, and direct them to review the existing plan and if still appropriate submit for extension by IDHW during the emergency period.

16.03.10.513.12(d). Plan of Service. Requires submission of provider's status reviews with annual plan. **SUSPENDED.**

DHW Request: To facilitate social distancing, Medicaid requests suspension of this subpart. By suspending this portion of the rule, IDHW will permit participants and plan developers to forego the annual person-centered planning process (i.e. the provider review portion of the process). IDHW intends to issue additional guidance to service coordinators reminding them of their remaining obligation to review service plan under IDAPA 16.03.10.727.02, and direct them to review the existing plan and if still appropriate submit for extension by IDHW during the emergency period.

16.03.10.727.02. Plan Development. "Development and revision of a specific plan, described in Section 731 of these rules that includes information collected through the assessment and specifies goals and actions needed by the participant. The plan must be updated at least annually (or extended through the duration of the declared COVID19 public health emergency) and as needed to meet the needs of the participant. **AMENDED.**

16.03.23.011.05. Reassessments. Requires annual reassessment of state funded clients. **SUSPENDED.**

DHW Request: Medicaid requests suspension of the following language within this subpart: "or annually, whichever occurs first. Suspend annual requirement for reassessments (leave significant change in place) to allow flexibility in prioritizing assessment volume for new waiver participants and participants with critical conditions arising that require additional services.

Your Legal Questions Answered

At any time you can contact the Hotline and have your legal questions answered.

1-877-287-0984

An attorney will respond to your question within one business day.