INFORMAL NOTICE OF RULEMAKING

THE DEPARTMENT INTENDS TO CONDUCT NEGOTIATED RULEMAKING IN NOVEMBER 2021 REGARDING DRAFT RULE CHANGES NECESSARY FOR THE IMPLEMENTATION OF A NEW RESOURCE ALLOCATION MODEL FOR MEDICAID'S ADULT DEVELOPMENTAL DISABILITIES PROGRAM.

PEOPLE WILL HAVE AN OPPORTUNITY TO PROVIDE FORMAL WRITTEN COMMENTS TO THE DEPARTMENT FROM NOVEMBER 3, 2021, THROUGH NOVEMBER 26, 2021. ADDITIONALLY, PEOPLE WILL HAVE AN OPPORTUNITY TO PROVIDE SPOKEN COMMENTS TO THE DEPARTMENT DURING AN ON-LINE PUBLIC MEETING ON TUESDAY, NOVEMBER 16, 2021, AT 2:00 PM (MOUNTAIN TIME).

AFTER COMPLETING THE NEGOTIATED RULEMAKING PROCESS, THEDEPARTMENT WILL REVIEW THE PUBLIC COMMENTS RECEIVED ANDREVISE THE DRAFT RULES AS NEEDED.

THE DEPARTMENT INTENDS TO PUBLISH TEMPORARY RULES WHICH WILL BECOME EFFECTIVE MAY 2022 TO ALLOW THE DEPARTMENT TO BEGIN THE IMPLEMENTATION OF THE NEW RESOURCE ALLOCATION MODEL IN JUNE 2022 AS REQUIRED BY THE FEDERAL DISTRICT COURT OF IDAHO.

IN ADDITION TO THE TEMPORARY RULES, THE DEPARTMENT INTENDS TO PUBLISH THE SAME TEXT AS PROPOSED RULES THAT WILL UNDERGO AN ADDITIONAL 90-DAY PUBLIC COMMENT PERIOD,BE REVISED AS NEEDED BY THE DEPARTMENT, AND THEN BE REVIEWED BY THE IDAHO LEGISLATURE DURING THE 2023 LEGISLATIVE SESSION.

The Department is making these draft rule changes available prior to thepublication of the negotiated rulemaking notice in the Idaho Administrative Bulletin to ensure people have enough time to review thedraft changes prior to the comment period and the on-line public meeting. Additional details about how people can join the on-line publicmeeting and submit formal comments will be published on this websiteand in the Idaho Administrative Bulletin on November 3, 2021.

OVERVIEW OF RULEMAKING

BACKGROUND

Since 2012, the Department has been party to a class action lawsuit, (known as *K.W. v. Armstrong*), which relates to the allocation of Medicaid dollars among individuals in the Idaho adult developmental disabilities program. The federal court concluded that the then-existing budget tool (used to allocate resources within the state's adult developmental disabilities program) violated individuals' due process rights under the fourteenth amendment of the U.S. Constitution because of its unreliability. The parties then reached a settlement agreement, which was approved by the federal court in 2017.

Under the settlement agreement, the Department is required to adopt and implement a new resource allocation model that will determine personal supports budgets for participants in the adult developmental disabilities program. The settlement agreement seta deadline for the implementation of the new resource allocation model but allowed the parties to negotiate a new completion deadline if the original deadline could not be met. Additionally, if the parties could not agree on a new completion deadline, they could ask the Court to set a "reasonable completion deadline."

In this case, the Department could not meet the original deadline and the parties could not agree on a new completion deadline. The parties returned to court and the Department requested an extension of the completion deadline to July 2024. In December of 2020, the Court set the new "reasonable completion deadline" as June 2022.

To implement the new resource allocation model, the Department intends to make thefollowing primary program changes:

- Replace the SIB-R assessment tool with the Vineland-3 and SIS-A Assessmenttools;
- Determine annual budgets using proposed five-level framework and stop calculatingbudgets using the old budget tool; and
- Change the available service array to provide more service options for participantsto choose:
  - Modify supported living residential habilitation services;
  - Add Community Habilitation services;
  - Add Prevocational services;
  - Add Career Planning services;
  - Modify Non-Medical Transportation services; and
  - Modify Service Coordination services.

SUMMARY OF DRAFT RULE CHANGES FOR IDAPA 16.03.10

SECTION 09 (Pages 6-7). Updates criminal history and background check requirements to require that providers of new or modified services have and pass a criminal history andbackground check.

SECTIONS 310, 311 and 317 (Pages 7-9). Updates section references and clarifiesthat plan developers must sign an individual's Medicaid Plan of Service.

SECTION 501 (Pages 10-13). Updates the standard deviation used to identify when anadult has a substantial functional limitation in a major life activity required to decide if a person has a developmental disability. The Department is proposing to change the standard deviation for adults from 2 to 1.5, which has the potential to broaden the definition of a developmental disability. Includes

technical updates to clarify the standards being utilized for determining a developmental disability.

SECTION 507 (Pages 13-14). Clarifies which services are subject to the Prior Authorization Rules in Sections 507 - 515. Relocates appeal rules to ensure they applyto all prior authorization decisions instead of only the prior authorization of the plan of service (Section 513).

SECTION 508 (Pages 14-15). Removes duplicate and unneeded definitions. Clarifiesthe uses of a Department-Approved Assessment Tool. Updates section references.

SECTION 509 (Pages 15-17). Clarifies the purposes of assessment for eligibility and setting participant's budgets. Clarifies what the parts of an assessment are. Clarifies the types of assessments and when assessments will be completed.

SECTION 510 (Pages 17-18). Describes the criteria the department will use to setparticipant's budget, the reasons for budget modifications, and when budget determinations/re-determinations will be made.

SECTION 513 (Pages 19-23). Combines and deleted duplicate references about plan development and plan monitoring requirements previously included in Sections 513, andthe Service Coordination Sub-Area in Sections 720-779). Updates provider implementation plan and status review requirements for new and existing provider types.Clarifies annual reauthorization process.

SECTION 514 (Pages 24-25). Removes description of how participant budgets are setfrom this provider reimbursement section and removes high and intense supported livinglanguage from this section. Rules about how participant's budgets are set and modified are included in Section 510.

SECTION 515 (Pages 25-26). Removes exception review language from the qualityassurance section. Similar processes are described in Section 510 about budget modification. Deletes unneeded concurrent review process.

SECTION 584 (Pages 26-28). Modifies SIB-R scores currently used to determineICF/ID Level of Care to Vineland-3 scores.

SECTIONS 645-699 (Pages 28-45). Reorganizes the existing 1915(i) adult developmental disability state plan home and community-based services (HCBS) rules tobe similar to the organization of the 1915(c) waiver service rules (Sections 700-719).
Clarifies eligibility requirements for the state plan HCBS services. Adds service descriptions and provider qualifications for the new community habilitation service and fornon-medical transportation service (which is being moved from the waiver to the state plan HCBS services).

SECTIONS 700-719 (Pages 45-58). Clarifies eligibility requirements and re-determination process for waiver services. Modifies service definition, limitations and provider qualifications for residential habilitation. Adds prevocational and career planningservice definitions, limitations, and provider qualifications. Removes Non-Medical Transportation from this section of rule because it was moved to the state plan HCBS services (Sections 645-699). Updates waiver provider record requirements.

SECTIONS 720-779 (Pages 58-69). Clarifies conflict of interests standards for plan developers. Deletes duplicate eligibility requirements. Deletes duplicate references about plan development and plan monitoring which have been moved to Sections 513. Aligns definition of crisis assistance provided by service coordinators with crisis supportservices that can be provided by other provider types as part of the state plan HCBS services. Modifies limitations of adult service coordination to allow for 12

hours of plan development per year and to allow unused service coordination hours to roll over from month-to-month during a plan year.

SUMMARY OF DRAFT RULE CHANGES FOR IDAPA 16.03.13

SECTION 135 (Pages 70). Clarifies Conflict of interest standards for support brokers.

SECTION 190 (Pages 71). Updates how self-direction budgets will be set and refers to IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 510.

IDAHO ADMINISTRATIVE CODE – Idaho Department of Health and Welfare

IDAPA 16.03.10 – Medicaid Enhanced Plan Benefits

09. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

03. Providers Subject to Criminal History and Background Check Requirements.

e. Criminal history background checks are required for Prevocational, and Career Planning Service Providers.

i. Criminal history background checks are required for Community Habilitation Providers.

m. Criminal history background checks are required for Non-Medical Transportation Providers.

t. Criminal history background checks are required for Supported Employment, Providers.

317. HOMEAND COMMUNITY-BASED PERSON-CENTERED SERVICE PLAN REQUIREMENTS.

10. Plan Signatures

By signing the plan, the person agrees that the goals written in the plan are goals they want to work on. The plan must be signed by the plan developer and all other individuals and service providers who are in charge of making the plan happen. Someone else may sign for the person if they have the authority to do so (like a guardian).

SUB PART: ENHANCED DEVELOPMENTAL DISABILITY SERVICES

(Sections 500-719)

501. DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS: ELIGIBILITY.

(b) results in large limitations in 3 or more of the following major life activities:

If a person receives specified scores on the current assessment tool it is believed they have limited abilities in three or more life areas. The Vineland-3 will be the assessment tool used when these rules go into place. The Department considers different Vineland-3 scores for each major life area that is reviewed.

(c) reflects the needs for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of life-long or extended duration and individually planned and coordinated.

If a person has limited abilities in three or more life areas it is believed that the person needs a mix of care, treatment, a team of specialists, or other services that need to be planned and scheduled.

A developmental disability is lifelong, and it is believed that services and supports will likely be needed for their lifetime.

507. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION (PA).

02. Complaints and Administrative Appeals.

A person may let the Department know they do not agree with the result of the assessment process, eligibility determination, their plan development, the quality of their services and supports, or any other concerns a person may have with their service planning.

A person who does not agree with a decision made by the Department about their eligibility, the budget set by the Department, or the services the Department has agreed to provide, may ask the Department to review and reconsider its decision.

508. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: DEFINITIONS.

04. Department-Approved Assessment Tool.

A Department chosen Assessment Tool is used by the Department to decide if a person is eligible for adult Developmental Disability State Plan services, part of Home and Community Based Services; or if the participant is eligible for the Developmental Disability Waiver. The Assessment Tool is also used to decide a person's skill level, what level of support a person needs, and the person's budget for services. This information will help to show what support needs to be included in the plan of service.

509. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: ASSESSMENT.

02. Parts of the Assessment

A current assessment is needed for each person to be able to create their plan for services. The assessment includes many parts. Here are the parts to the assessment:

- A physical examination done by a medical doctor with written notes about the person's developmental disability.
- Written report of the person's medical, social, and developmental history is currently completed by the assessor, Liberty Healthcare. This must be looked at each year to make sure the report includes any changes.
- Psychometric test results must be given to the Department. These tests are done by a psychiatrist and measure a person's intellectual skills.
- A Department approved assessment, measures a person's functional abilities in all life areas that include:
  - Ability to make needs known and understand what others are saying
  - Eat, dress, bathe, brush their teeth, and keep themselves clean
  - Ability to make decisions independently about their life
  - Ability to make a living

- Ability to keep track of money, pay bills, buy groceries, etc.
- Ability to move their body by themselves and get themselves from one place to another
- Ability to solve problems

This assessment will be the Vineland and the SIS-A once these rules start.

- Medical conditions and details about how the person's health may become worse over time because of their medical conditions.
- Support needs due to mental health needs or certain challenging behaviors that may be difficult to support should be included.

When the new program begins everyone who receives services in the adult developmental disability program will complete the new assessments.

03. Types of Assessments

c. Other Assessments.

A person may have written information about changes to their health that may change the amount and kind of services needed for the person. When this happens the Department or the Assessor, Liberty Healthcare, may do a complete review of the person's most current assessments to see if they have the detail needed about the person's current condition. If the assessment does not have this current information about the person, all or parts of the assessment may be re-done. This may include a test of a person's ability to function in all life areas. The findings of these assessments will be given to the person.

510. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PARTICIPANT BUDGETS.

Each person will be given an annual participant budget before services start. The Department will figure out a participant budget for each person every year. A person's budget is created based on their support needs, and the kind of in-home services the person chooses. The budget will also depend on the way a person gets their services the person is able to access state plan home and community-based services only, traditional home and community-based waiver services, or if the person self-directs their services through the My Voice My Choice self-direct option.

The Department will look over plans and information that is added to the plan later (these are called addendums). This additional information is usually a request for services that cost more than the amount in the participant budget. Budget changes are agreed to by the Department when:

- The service requested is a health or safety service.
- A service (other than a health or safety service above) is needed to meet a health or safety need.
- Community supported employment services are needed to get or keep a job in the community.

The Department expects to develop service-specific criteria for the following designated health and safety services:

- Skilled Nursing and Nursing Oversight
- Specialized Medical Equipment/Supplies
- Environmental Accessibility Adaptations
- Behavior Consultation
- Home Delivered Meals
- Personal Emergency Response System
- Crisis Intervention Services
- Community Transition Services
- Community Supported Employment
- Non-Medical Transportation for Community Supported Employment

While the criteria for each service will be different, the Department expects the criteria to be similar to current criteria. For example, right now to be approved for home delivered meals a person would need to show:

- They are alone for large parts of the day;
- They are without a caretaker for long periods of time; and
- They are not able to prepare a meal without help.

513. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PLAN OF SERVICE.

01. Plan Developer

A person may run their own person-centered planning meeting or ask a paid or non-paid plan developer to run the meeting. A person may write their own service plan or ask a paid or unpaid plan developer to write the service plan for them. Individuals who run the person-centered planning meeting or write the person-centered plan must meet what is called a conflict of interest standard. This means that individuals asked to run the meeting or write the plan will not be paid for future services as a result of running the meeting or writing the plan. To be paid as a plan developer they must be working as a service coordinator or be a support broker.

02. Plan Development

Plan development will include time spent looking at the needs of the person now and in the past. Time will be spent with the person, their family members, and other people who know the person well including medical providers, social workers, and teachers. Plan development will include making sure the person understands their choices about services and providers and finding service providers who are able to meet the needs of the person and help the person to reach the goals in their service plan.

514. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: REIMBURSEMENT.

Services may be paid for if they are written in plan and the Department has agreed to providing the service that meets and identified need.

584. ICF/ID CRITERIA FOR DETERMINING ELIGIBILITY.

05. Functional Limitations.

The Vineland-3 will be the assessment tool used when these rules go into place. The Department considers different Vineland-3 scores to decide if a person has limited abilities that would make them eligible.

06. Maladaptive Behavior.

The Vineland-3 will be the assessment tool used when these rules go into place. The Department considers different Vineland-3 scores to decide if a person has behaviors that would make them eligible.

07. Combination of Functional and Maladaptive.

A person may also be eligible because of a combination of limited abilities and behavior. The Department considers different Vineland-3 scores to decide if a person has a combination that would make them eligible.

ADULT DEVELOPMENTAL DISABILITIES STATE PLAN HOME AND COMMUNITY BASED SERVICES (HCBS) BENEFIT

(Sections 645-699)

645. ADULT DEVELOPMENTAL DISABILITIES (DD) STATE PLAN HOME AND COMMUNITY BASED SERVICES (HCBS) BENEFIT

The Department provides State Plan Home and Community Based Services to people who are eligible for state plan services but do not need the level of care given in an intermediate care facility for people with intellectual disabilities (ICF/ID).

646. ADULT DD STATE PLAN HCBS: ELIGIBILITY.

Eligibility for state plan services is determined by the Department and follow these rules and the assessment process in section 509.

01. To receive State Plan HCBS Services the participant must:

a. be eligible for Medicaid
b. be 18 or older
c. have a developmental disability
d. have the following needs

- need help in three (3) or more life areas – self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, and
- needs a mix of care, treatment, a team of specialists, or other services they will need for a long period of time or their lifetime. The person needs these services and supports to do some things that people their age without a disability are able to do without support. Their disability usually took place at birth but may have happened before the age of 22 years old.

02. Redetermination Process

The Department or contractor will review each case every year to see if the person still meets eligibility.

647. ADULT DD STATE PLAN HCBS: COVERAGE AND LIMITATIONS

01. Community Crisis Services.

Services to help people use community resources to improve a time of crisis for a person.

a. A crisis is a sudden, unusual event or life situation that may cause a person to experience at least (1) of the following:
   - be put in a hospital
   - lose housing
   - lose their job or money
   - go to jail
   - harm themself or others, including a family fight or other harmful events

b. community crisis services can be done in an emergency room during the Emergency Room evaluation if the goal is to avoid a stay in the hospital and return the person to the community.

c. community crisis services can be given before or after the assessment or service plan is done. If help is given before the assessment or service plan is done, the service plan must show a list of things that caused the crisis to take place and what to do about those things if they happen again.

d. A person can ask the Department for permission for crisis services after they have already been given. A person, or their support would need to show there was a need for the crisis services to happen right away, there were no other supports available, and the services helped to stop the crisis.
The provider must complete a crisis resolution plan and ask for crisis services from the Department within five (5) business days from the last day the services were provided.

e. Community crisis services are limited. A person can only get up to twenty (20) hours of services during a period of five (5) days in a row.

02. Developmental Therapy. Developmental therapy includes teaching daily living skills that the person has not learned during the normal developmental stages in their life or will not develop without training or therapy. These services must help the person get back or gain skills to eat, dress, bathe, brush teeth, and keep themselves clean; make their needs known and understand what others are saying; learn new things; move their body and get from one place to another;

make decisions about their life; live independently; and earn and manage the money they need to live their life. Developmental therapy must be done in a way that respects the person's physical age and supports activities that are like what other people their age are doing.

a. Referrals and Prior Evaluation. Developmental therapy must be referred by a doctor or other health professional, must be delivered by qualified Developmental Specialists or paraprofessionals, and must follow the results a developmental therapy evaluation done before the start of services.
b. Settings for Developmental Therapy. Developmental Therapy may be done in the following settings:
    - Person's home and in the community
    - Developmental disability agency's center-based setting.
    - Person's living in a certified family home must not receive home-based developmental therapy in a certified family home.
c. Exclusions. Developmental therapy cannot be:
    - Vocational services to support work;
    - Tutoring or educational services to support school learning; and
    - Recreational services.
d. Limitations. The Medicaid program will only pay for one (1) type of therapy during a certain time. Developmental therapy will not be paid for when the person is being driven to and from the agency.

03. Developmental Therapy Evaluation. A complete (comprehensive) developmental assessment and a specific skills assessment can be paid for when they follow these rules:

a. Comprehensive Developmental Assessments must be done by qualified professionals. The assessment must:
    - show the need for the service;
    - show the person's needs;
    - guide the treatment.
    - show the person's strengths, needs and interests.
    - The assessment must be signed dated by the professional who did the assessment and include their qualifications.

    Assessments must show how the person is at the current time. Assessments must be completed or updated at least every two (2) years for the service areas the participant is receiving services for on an ongoing basis.

Comprehensive Developmental Assessment must show how a person is doing in the following areas: ability to eat, dress, bathe, brush teeth, and keep themselves clean; make their needs known and understand what others are saying; learn new things; move their body, hands, and feet and get from one place to another; make decisions about their life; live independently; and earn and manage the money they need to live their life.

b. Specific Skill Assessments must:
   - look at an area of disability or difficulty that was seen in the comprehensive assessment;
   - be related to a goal on the Individual Program Plan or Individual Service Plan;
   - be done by qualified professionals;
   - be done to figure out the person's skill level in a certain life area;
   - be used to decide the starting point where services can help and develop the program implementation plan.

04. Community Habilitation. Community Habilitation supports an individual's interests, goals, and needs so they can be part of activities with other people in their community. This service can help the person find new interests and skills and spend time with people of their choosing. It can support the person to share their talents, interests, and culture with other people the community. This service will help the person connect with other people in different ways.

a. Community Habilitation can include:
   - Teaching and improving skills to use community resources, be safe, and take part in community activities listed in the individual's person-centered plan;
   - Training and teaching self-advocacy to help the individual enjoy more social and community activities;
   - Support to attend social events/clubs, and/or recreation activities;
   - Support to volunteer;
   - Support to go to church or other spiritual activities.

b. Community Habilitation is expected to help the person connect with the larger community and people who are not paid to provide support.

c. These services are done only in community places where people with and without disabilities spend time together. This service is not done where the person lives or in a facility/disability center.

d. Personal assistance can be part of Community Habilitation but cannot be the entire service. Helping the person have skills for daily living can be part of the service, but not the entire service.
e. The service can include driving the person if it is needed to meet their goals and needs as written in the provider implementation plan.
f. Limitations to Community Habilitation are:
   - Service is done just for the individual or in groups of no more than three (3) people. Group service can only be done when all the people in the group have similar interests and goals and each person wants to be there.
   - May be done during the day, evening, and/or weekends
   - Cannot do the same thing as another service or be given at the same time as another service.
   - Transportation to or from another waiver service is not included in the community habilitation rate but may be provided as non-medical transportation and billed separately.

05. Non-Medical Transportation helps an adult who gets Developmental Disability (DD) state plan services and Home and Community Based Services (HCBS), and other community services.

a. It is offered in addition to medical transportation. It does not replace it.

b. Whenever possible, family, friends or community agencies provide this service for free or public transportation will be used.

06. Place of Service Delivery Adult DD state plan HCBS can be given in approved places that include the person’s home, a certified family home, day habilitation/supported employment program, or the community.

State plan HCBS services cannot be given:

a. in a licensed skilled or intermediate care facility, certified nursing facility, hospital; and

b. in a licensed intermediate care facility for persons with intellectual disabilities; and

c. in a residential assisted living facility.

648. ADULT DD STATE PLAN HCBS: PROCEDURAL REQUIREMENTS FOR INDIVIDUALS WITH AN ISP.

01. Authorization of Services on a Written Plan. All adult DD state plan HCBS must be listed on the service plan approved by the Department.

02. Assessment and Diagnostic Services.

a. Developmental Therapy providers must have a person's current medical, social, and developmental information from the Department or it's contractor.

b. Providers must also have the required assessments. Providers can be paid up to four (4) hours for the assessment, evaluation, and diagnosis services in a calendar year.

03. Provider Records. The provider will keep four (4) types of record information for each person that gets adult DD state plan HCBS:

a. Direct Service providers information for each visit or service given to the person.

- Date and time of the visit; and
- Services provided during the visit; and
- Written statement of how the person did with the service and any changes to their condition; and
- Length of the visit – time in and out. If the person can, they will sign the service record.
- A copy of these records will be kept in the participant's home unless the Department approves them to be kept somewhere else. If these records are not kept, the Department can ask for the money back that was paid for services.

b. A copy of the service plan must be kept in person's home and be shared with service providers and the Department.

c. A copy of the provider implementation plan must be kept in person's home and be shared with service providers and the Department.

d. Adult DD state plan HCBS providers need to send a six (6) month status review and annual review to the plan monitor. A copy will also need to be in the person's record.

04. Provider Responsibility for Notification. The service provider must tell the service coordinator or plan developer when they see any big changes in the

person's condition when they are giving services. The note about changes will be included in the service record.

05. Records Maintenance. Provider agencies will keep records for their participants for five (5) years after the last day they provide a service.

650. ADULT DD STATE PLAN HCBS: PROVIDER QUALIFICATIONS. – All providers must have a valid provider agreement with the Department. The Department will check on how the provider is doing their job.

01. Community Crisis Services. Providers for this service must:

a. Be one of the following and meet the Department's requirements:
- Residential habilitation agency;
- developmental disabilities agency;
- certified family home;
- supported employment provider;
- behavioral consultation provider.

b. Community crisis service providers that provide direct care or services must:
- be eighteen (18) years or older;
- be a high school graduate or have a GED; and
- pass a criminal history check.

02. Developmental Therapy and Developmental Therapy Evaluation.

a. The Developmental therapy evaluation must be given by a developmental disabilities agency (DDA) that meets the Department's standards.

b. General Staffing Requirements. Each DDA must have an agency administrator responsible for all parts of the services done by the agency. They must work for the agency on a regular schedule. They are responsible for all agency operations. They make sure rules are followed. They are the boss of staff. They develop written policies and procedures and make sure they are followed. They make sure the services are of good quality. If the administrator is not a Developmental Specialist the DDA must hire a Developmental Specialist who is responsible for all parts of the services given by the agency.
- This Developmental Specialist must have two (2) years of experience being supervisor or a manager of developmental disability services to individuals with developmental disabilities.

c. A Developmental Specialist (DS) for adults must be qualified as a DS and have at least two hundred forty (240) hours of supervised experience and one of these:

- Have a bachelor's or master's college degree in special education, early childhood special education, speech and language pathology, applied behavioral analysis, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation; or
- Have a bachelor's or master's degree in an area not listed above and complete a skills training approved by the Department and the Idaho Association of Developmental Disabilities Agencies; and pass a test approved by the Department.
- Any Developmental Specialist working in Idaho before May 30, 1997, can keep being a Developmental Specialist if they haven't been away from this job for more than 3 years. If the Department said the person could not work as a Developmental Specialist in the past they would not be able to.

d. Developmental Therapy Paraprofessionals. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to give developmental therapy if they are supervised by a Developmental Specialist. A developmental therapy paraprofessional must be 17 years old.

When a paraprofessional does developmental therapy, the agency must make sure they are supervised by a trained person. All paraprofessionals must meet the training requirements and standards in this section of rules.

- Limits to Paraprofessional Activities. The agency must make sure that paraprofessionals do not do participant assessments, write a service plan, or a Program Implementation Plan.
- Providing Supervision. The agency must make sure that a trained person is the boss of all paraprofessionals. Supervisors must give paraprofessionals clear directions, review how they are doing, and give them training on program(s) and procedures at least once a week, or more often if needed.
- Professional Observation. A trained person must make sure all of the work of the paraprofessional is done in a quality way and they have been given the right amount and type of training.

e. Requirements for Collaboration with Other Providers. When people get rehabilitative or habilitative services from other providers, each DDA must

work with these providers so the person can use the skills they learn in different places. The DDA and other providers must make sure they are not doing the same service for the person.

The DDA must keep a record of how they work with other providers. This record includes other kinds of service plans like the Individual Education Plan (IEP), Personal Care Services (PCS) plan, Residential Habilitation plan, and the outpatient behavioral health service plan. The person's file must also show how these plans have been added into the DDA's plan of service for each person.

03. Community Habilitation. Providers for this service must meet the following:
a. Be one of these and meet the Department's requirements:

  a. A residential habilitation agency; or
  b. a developmental disabilities agency.

b. Community habilitation direct care staff must:

- Be 18 years or older,
- Be a high school graduate or have a GED or be able to show they can provide the services in the service plan,
- Have current CPR and First Aid certifications;
- Pass a criminal history check;
- Not have a disease that can spread to other people; and
- Have a current valid driver's license and vehicle insurance.

04. Non-Medical Transportation. Providers of non-medical transportation services must:

a. Have a valid driver's license; and

b. Have vehicle insurance; and

c. Pass a criminal history check.

651. ADULT DD STATE PLAN HCBS: PROVIDER REIMBURSEMENT

01. Fee for Service. Adult DD state plan Home and Community Based Service providers will be paid for each type of service they provide and will be paid after they provide it.

02. Claim Forms. Providers will use forms provided or approved by the Department. The Department will provide billing instructions to providers.

03. Rates. Providers of Adult DD state plan HCBS will be paid a rate created by the Department. A rate is a dollar amount that is paid for a certain amount of service.

ADULTS WITH DEVELOPMENTAL DISABILITIES WAIVER SERVICES

(Sections 700-719)

702. ADULT DD WAIVER SERVICES: ELIGIBILITY

The Department determines if a person is eligible for waiver services following these rules and the assessment process in section 509.

01. Eligibility Requirements. The Department or contractor must determine that:

a. The person is eligible for Medicaid for Aged, Blind, and Disabled (AABD).

b. The person is 18 years or older

c. The person has a developmental disability

d. The person would qualify for ICF/ID level of care (in Section 584)

e. The person can live safety with supports in the community.

03. Redetermination Process.

A person's case will be reviewed each year to determine if they are still eligible and need waiver services.

703. ADULT DD WAIVER SERVICES: COVERGE AND LIMITATIONS.

01. Residential Habilitation. These are services to help a person live in their own home, with their families, or in a certified family home. The services and supports that may be provided include:

d. Transportation the person needs to meet their needs and goals and are listed in the provider implementation plan.

e. Limitations

- Residential Habilitation services can be given in the individuals home or community but cannot be given in a developmental disability center. They

cannot be the same as other types of residential services the person gets.

- People can get residential services and services in the community on the same day.
- Transportation is not included in the residential habilitation rate but can be given as non-medical transportation billed outside of the residential habilitation rate.

05. Prevocational. Prevocational services help the person have learning, work, and volunteer experiences to develop strengths and skills to get a job in the community in places where people without disabilities work. Activities are meant to help the person have general job-related skills like paying attention, moving their body to do tasks, connecting with co-workers and supervisors, showing up on time, and showing up to the job in clean clothes. The services are not meant to help the person learn the skills needed for a specific job. Prevocational Services are meant to build skills that a person will need to work at a job in the community with people who do not have disabilities and earn regular wages. Personal assistance services can be part of prevocational supports but cannot be the only support given.

a. Services are given to help the individual get closer to their own work goals. The services have a set time frame for when they start and when they will end so the person can learn the skills they need.

b. Services can be done in different places in the community that help the person use the skills they are learning. The places where services are done must match the person's need and work best for the person to develop the skill. The services should be given in the community but can be done in the person's home if needed.

c. People can get a job anytime they choose. A person does not need to have prevocational services before getting a job or receiving Supported Employment Services.

d. Medicaid waiver Prevocational Services are not available through Vocational Rehabilitation or Special Education. There must be proof that the service is not available under Vocational Rehabilitation or Special Education (the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act).

e. Limitations

- The service cannot be done for longer than one year
- The service can be done with one person or in a group of no more than (4) people. In small groups, the service must focus on all the individuals' needs and goals and be based on each person-centered plan.

06. Career Planning. Career planning helps a person create their own plan for employment. It helps the person learn about themselves and what they can do to have a job in the community where they work with people who do not have disabilities and earn regular wages. Career planning is focused and time limited.

a. This service helps the person make a choice about what job they want and create a plan for support that they need to go to work. This career plan should include important information about the person's skills and interests, and what talents they can bring to a job. It includes what kind of job they want to do and the kind of place they want to work. The plan includes information about how working will affect the person's benefits, a list of useful social networks, and/or a resume.

b. Career planning can be done in different settings but cannot be done at the individual's home except for a home visit that is part of the learning about an individual's skills, interests, and activities of daily life.

c. Medicaid waiver Career Planning is not available through Vocational Rehabilitation or Special Education. There must be proof that the service is not available under Vocational Rehabilitation or Special Education (the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act).

d. Limitations.
- This service is limited to four (4) hours per week.
- This service can only be provided to an individual, not in a group.

704. ADULT DD WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

02. Provider Records. Providers must keep four (4) types of record information about all people getting waiver services.

a. Direct service provider information.

b. A current copy of the approved service plan must be kept in the person's home and be shared with all service providers and the Department.

c. A current copy of the provider implementation plan must be kept in the person's home and be shared with all service providers and the Department.

d. Service Providers that develop a Provider Implementation Plan must submit a six (6) month status review and annual review to the plan monitor. Status Reviews must be kept in the person's record.

705. ADULT DD WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Residential Habilitation – Supported Living

a. Direct service staff:

v. Must have a current and valid driver's license and vehicle insurance if they drive people.

02. Residential Habilitation – Certified Family Home

b. CFH providers providing residential habilitation services must:

v. Must have a current and valid driver's license and vehicle insurance if they drive people.

06. Prevocational. Prevocational Services must be done by an agency that supervises the direct service and is reviewed and approved by the Commission on Accreditation of Rehabilitation Facilities (CARF) or meets State requirements to be a State-approved provider. Staff who do direct care or services must pass a criminal history background check.

07. Career Planning. Career Planning Services must be done by an agency that supervises the direct service and is reviewed and approved by the Commission on Accreditation of Rehabilitation Facilities (CARF) or meets State requirements to be a State-approved provider. Staff who do direct care or services must pass a criminal history background check.

SUB AREA: SERVICE COORDINATION SERVICES

(Sections 720-779)

721. SERVICE COORDINATION: DEFINITIONS.

03. Conflict of Interest Standard. People that create a participant plan of service will not be:

a. Related by blood or marriage to the person or any paid caregiver of the person;

b. In charge of the person's money or paying for any of their daily living needs.

c. Able to make decisions about money or healthcare for the person;

d. The owner or part owner of an agency or company that is paid to do the care for the person; or

e. A provider of state plan HCBS or waiver services for the person or work for a provider of state plan HCBS or waiver services.

727. SERVICE COORDINATION: COVERAGE AND LIMITATIONS.

01. Plan Development Activities. Plan development activities are described in Section 513. The service plan must be looked at each year and changes will be made as the person's needs may change.

02. Monitoring and Follow-Up Activities. Monitoring and follow-up activities are described in Section 513.

03. Crisis Assistance.

a. can be given in the emergency room if the goal is to avoid a stay in the hospital and have the person return to the community.

b. can be done before or after the assessment and service plan is done. If help is provided before the assessment or service plan is done, the service plan must show a list of things that caused the crisis and what to do about those things if

they happen again.

c. The service coordinator must do a crisis resolution plan and ask for crisis services from the Department within five (5) business days from the last day the services were provided.

06. Limitations on Service Coordination for Participants with Developmental Disabilities.

a. Service coordination plan development activities are limited to twelve (12) hours each year unless more are approved by the Department.

b. Monitoring the plan and follow-up activities are limited to four and a half hours (4.5) each month. If these hours are not used in the month, they can be used in the rest of the months in that plan year.

07. Limitations on Service Coordination for Children.

a. Service coordination plan development activities are limited to six (6) hours each year.

b. Service coordination monitoring and follow-up activities are limited to four and a half (4.5) hours each month.

c. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. The Department must approve any crisis hours for children's service coordination.

728. SERVICE COORDINATION: PROCEDURAL REQUIREMENTS

02. Documentation of Service Coordination.

n. A copy of the Department-approved service plan must be kept in the person's home and be shared with all service providers and the Department.

06. Responsibilities Related to Conflict of Interest. The service coordinator and the agency must watch for conflicts of interest to make sure that people's self-determination rights are protected.

Each service coordinator will:

- Be aware of and not have conflicts of interest that may cause them to be unfair or have a view that favors a certain provider; and
- Tell the person, parent or legal guardian if there is a real or possible conflict of interest and agree on a manner in which the issue is fixed in a a way that makes the person's choices the most important and protects their choice as much as possible.

Each agency must:

- Make sure its workers and contractors meet conflict of interest standards.

729. SERVICE COORDINATION: PROVIDER QUALIFICATIONS.

08.Conflict of Interest Standards. Service coordinators and the agency must meet the conflict of interest standards that are defined in Section 721 of these rules.

16.03.13 – CONSUMER-DIRECTED SERVICES

135. SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.

The support broker cannot work for an agency that gives services to the same person. The support broker cannot provide community supports to the same person. The support broker must meet Medicaid's conflict of interest standards.

190. Individualized Budget

The participant's budget is based on the method the Department has outlined in section 501.

02. Annual Re-Evaluation of Adult Participant Budgets.

The participant's budget will be looked at every year. The person can request a re-evaluation if there are changes in support needs, where they live or if they change waivers.