

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.70 – RULES GOVERNING SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0170-1801

#### 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 41-211 and 41-4715, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) 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:

This rulemaking follows House Concurrent Resolution 45 adopted in 2018 and some meetings that have already occurred with the Department of Insurance. Health insurers have not covered hearing aids for children based on exclusionary language in this rule addressing the small group market. This rulemaking seeks to revise language related to exclusions for hearing aids so that hearing loss interventions will be covered within certain parameters. (This rule is a companion rule to that affecting the individual insurance market IDAPA 18.01.30.)

**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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Vol. 18-7, page 139](#). Public meetings were held July 23 and September 6, 2018.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov), or (208) 334-4315.

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 24, 2018.

Dated this 7th day of September, 2018.

Dean L. Cameron  
Director Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0170-1801**  
**(Only Those Sections With Amendments Are Shown.)**

**016. LIMITATIONS AND EXCLUSIONS.**

A health benefit plan shall not limit or exclude coverage by type of illness, accident, treatment, or medical condition, except as follows: ( )

**01. Services Not Medically Necessary.** Excluded. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (1-25-95)

**02. No Coverage.** Custodial, convalescent or intermediate level care or rest cures. (1-25-95)

**03. Experimental or Investigational.** Services which are experimental or investigational. (1-25-95)

**04. Workers' Compensation, Medicare, CHAMPUS.** Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (1-25-95)

**05. No Charges.** Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (1-25-95)

**06. No Medical Diagnosis.** Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. (7-1-98)

**07. Cosmetic Surgery.** Cosmetic surgery and services, except for treatment or surgery for congenital anomaly. Mastectomy reconstruction is covered as described in the Women's Health and Cancer Rights Act. (3-15-02)

**08. Artificial Insemination, Infertility, Sexual Dysfunction.** Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (1-25-95)

**09. Induced Infertility.** Services for reversal of elective, surgically or pharmaceutically induced infertility. (1-25-95)

**10. Vision.** Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. (7-1-98)

**11. Limitation Foot Care.** For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (7-1-98)

**12. Manipulative Therapy and Related Treatment.** Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, co-insurance, or co-payment. (4-5-00)

**13. Dental, Orthodontic Services.** (7-1-98)

**a.** For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)

- b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)
14. **Hearing Tests.** Hearing tests without illness being suspect. (1-25-95)
15. **Hearing Aids, ~~Supplies~~.** Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and supplies, tinnitus maskers, cochlear implants and exams examination for the prescription or fitting of hearing aids them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device. (~~1-25-95~~)(      )
16. **Speech Tests.** Speech tests and therapy except as specifically allowed in the policy for children under the age of twelve (12). (1-25-95)
17. **Private Room Accommodation Charges.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (1-25-95)
18. **Services Performed by a Member of the Insured's Family.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (1-25-95)
19. **No Coverage Prior to Effective Date of Coverage.** Care incurred before the effective date of the person's coverage. (1-25-95)
20. **Covered Injury or Disease.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (1-25-95)
21. **Act of War or Armed Conflict.** Injury or sickness caused by war or armed international conflict. (1-25-95)
22. **Operation and Treatment, Sexual Change.** Sex change operations and treatment in connection with transsexualism. (1-25-95)
23. **Counseling.** Marriage and family and child counseling except as specifically allowed in the policy. (1-25-95)
24. **Acupuncture.** (7-1-98)
- a. For Basic and Standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)
- b. For Catastrophic plans: Acupuncture. (7-1-98)
25. **Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (1-25-95)
26. **Employer Maintained Medical or Dental Care.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (1-25-95)
27. **Termination.** Services incurred after the date of termination of a covered person's coverage except as allowed by the extension of benefits provision of the policy, if any. (7-1-98)
28. **Personal Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (1-25-95)

- 29. Failure to Keep a Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (1-25-95)
- 30. Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (1-25-95)
- 31. No Allowance.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (1-25-95)
- 32. Preexisting Conditions.** Pre-existing conditions, except as provided specifically in the policy. (1-25-95)