

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Labor Proposed and Temporary Rules :
IDAPA 09.01.30 - Unemployment Insurance Benefits Administration Rules - Temporary and
Proposed Rule (Docket No. 09-0130-1701).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/25/2017. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/22/2017.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

FROM: Division Manager - Mike Nugent

DATE: July 06, 2017

SUBJECT: Department of Labor Proposed and Temporary Rules

IDAPA 09.01.30 - Unemployment Insurance Benefits Administration Rules - Temporary and Proposed Rule (Docket No. 09-0130-1701)

The Department of Labor is proposing to promulgate as both proposed and temporary rules a change to its unemployment rules to provide a revised definition of the "central claims office" which will read as "a claims office designated by the Director of the Department where unemployment claims throughout the state are processed." The existing rule provides that the Central Claims Office is in Boise and this would allow it to be outside of Boise.

It appears to us the proposed rule has been promulgated within the scope of statutory authority granted to the Department of Labor.

cc: Department of Labor
Patricia Fitzpatrick

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 2, 2017.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-1333 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 July 19, 2017.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A. The Proposed / Temporary Rule Change:

1. Clarifies the misperception that leads unemployment insurance claimants to believe in order to file for unemployment insurance benefits they must call a Boise telephone number; and
2. Provides the department greater flexibility in the event the state needs to relocate its claims processing center for budgetary reasons or due to a natural disaster such as fire or flooding.

B. Supporting Reasons for Adopting a Temporary Rule:

1. The current language leaves a misperception that in order to file benefits a claimant:
 - a. Cannot access the claim center through their nearest Idaho Department of Labor office; and
 - b. Must contact a facility in Boise.
2. Should the need arise to move the Idaho Unemployment Insurance claims center for budgetary reasons or due to a natural disaster such as fire or flood, the department will have the flexibility to relocate the claims center outside of Boise.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Conferring a benefit (c)

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is temporary.

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 temporary and proposed rule, contact Josh McKenna, Benefits Bureau Chief, (208) 332-3577.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2017.

DATED this 26th day of May, 2017

Josh McKenna
Benefits Bureau Chief
Unemployment Insurance, Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
(208) 332-3577

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 09-0130-1701
(Only Those Sections With Amendments Are Shown.)**

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (4-11-06)

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

07. Boise Central Claims Office. ~~The central~~ ^A claims office ~~located in Boise, Idaho, designated by the director,~~ where unemployment claims throughout the state are processed. ~~(3-29-17)~~ ^{(6-2-17)T}

08. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

09. Claim. An application for unemployment insurance or "benefits." (3-19-99)

- 10. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)
- 11. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
- 12. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
- 13. Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
- 14. Corporate Officer.** Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. (4-4-13)
- 15. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned fourteen (14) times his weekly benefit amount. (4-11-06)
- 16. Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one half (1-1/2) times his weekly benefit amount. (4-5-00)
- 17. Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)
- 18. Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)
- 19. Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)
- 20. Itinerant Point.** A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)
- 21. Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)
- 22. Local Office.** A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)
- 23. Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)
- 24. New Claim.** The first initial claim made in a benefit year. (3-19-99)
- 25. Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)
- 26. Personal Identification Number (PIN).** A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)
- 27. Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

- 28. Signature, Signed.** The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)
- 29. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)
- 30. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)
- 31. Unemployment.** An individual shall be deemed “unemployed” in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one half (1-1/2) times his weekly benefit amount. (3-19-99)
- 32. Weekly Benefit Amount.** The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When the [Boise Central](#) Claims Office has determined that a claimant’s attempt to file an initial claim was delayed due to problems with the Department’s telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the [Boise Central](#) Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. ~~(3-29-17)~~(6-2-17)T

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the [Boise Central](#) Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. ~~(3-29-17)~~(6-2-17)T

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically or by telephone at the Department’s discretion. (3-29-17)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho’s Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department’s Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department’s interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

c. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant’s separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants shall be required to register for work in the State in which they reside and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)
- j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits may be denied for failure to provide proof of identity. A claimant notified by telephone of the need to provide proof of identity must provide the information to the Department within two (2) business days. A claimant notified by mail of the need to provide proof of identity must provide the information to the Department within five (5) business days of the date of mailing of the notice. (4-11-06)

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and

mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed fourteen (14) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (4-11-06)

10. Separation Notice. (3-19-99)

a. Notice to Employer of Separation. At the time a claim for benefits is filed, the Department will review the claimant's employment subsequent to which the claimant has not earned fourteen (14) times his weekly benefit amount. The Department will mail a separation notification letter to each employer within that period. A Department representative will then contact the employer within seven (7) business days for a response, unless the claimant indicated he quit the job for reasons not attributable to the employer. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, shall respond to the Department with the reasons for the separation whenever the claimant: (3-30-07)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)
- iv. Is not working due to a suspension; or (3-30-07)
- v. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished electronically or by telephone at the Department's discretion. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-29-17)

a. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

b. Telephone Filing. A claimant may file an AC/RO by telephone by calling the [Boise Central](#) Claims Office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (~~3-29-17~~)(6-2-17)T

c. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

575. SEEKING WORK.
Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, a claimant will be classified according to his attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. A claimant who has a firm attachment to an employer, industry or union, or who is temporarily or seasonally unemployed, and expects to return to his former job or employer in a reasonable length of time not to exceed a maximum of sixteen (16) weeks. If during the sixteen (16) weeks the claimant returns to work temporarily for the job attached employer, the claimant's period of job attachment shall be extended by one (1) week for each week of verified full-time employment as defined by Section 72-1312, Idaho Code. (3-25-16)

b. Code B. A claimant who possesses marketable skills in an occupation, but has no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in his area of availability. (3-19-99)

c. Code C. A claimant who has no marketable skills or whose skills have become obsolete and who is unable to return to his former occupation, or who has a special need for employment-related services. (3-19-99)

d. Code D. A claimant who is assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

07. Registering and Reporting on Work-Seeking Activity. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. A claimant shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. A claimant that has not registered for work when filing his claim and that is required to secure employment must register with the local office within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking requirements may result in a denial of benefits. (4-11-06)

a. Code O claimant must maintain regular contact with their employer(s) or union. (3-29-17)

b. Code 1 claimant will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)

i. Make at least one (1) employer contact each week in the manner prescribed by the [Boise Central Claims Office](#); ~~(3-29-17)~~(6-2-17)T

- ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- c.** Code 2 claimant will be required to engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)
- i. Make at least two (2) employer contacts per week in the manner prescribed by the [Boise Central Claims Office](#); ~~(3-29-17)~~[\(6-2-17\)T](#)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- d.** Code 3 claimant will be required to engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)
- i. Make at least three (3) employer contacts per week in the manner prescribed by the [Boise Central Claims Office](#); ~~(3-29-17)~~[\(6-2-17\)T](#)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)