

Dear Senators ANDREASON, McKague, Stennett, and  
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Industrial Commission:

IDAPA 17.02.09 - Medical Fees (Docket No. 17-0209-1102);

IDAPA 17.02.11 - Rules Governing Security for Compensation - Self-Insured Employers (Docket  
No. 17-0211-1101).

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 10/21/2011. 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 11/21/2011.

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 334-4845, or send a written request to the address or FAX  
number indicated on the memorandum enclosed.



Jeff Youtz  
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:** Principal Legislative Research Analyst - Katharine Gerrity  
**DATE:** October 3, 2011  
**SUBJECT:** Industrial Commission

IDAPA 17.02.09 - Medical Fees (Docket No. 17-0209-1102)

IDAPA 17.02.11 - Rules Governing Security for Compensation - Self-Insured Employers (Docket No. 17-0211-1101)

### 1. IDAPA 17.02.09 - Medical Fees

The Industrial Commission submits notice of proposed rule at IDAPA 17.02.09 - Medical Fees. According to the Commission, the rule change provides for the annual adjustment of the medical fee schedule for physician reimbursement in accordance with Section 72-803, Idaho Code. The Commission indicates that the reference to individual status codes has also been removed from Subsection 032.02(c)(i) due to occasional additions and deletions made by CMS that could require annual rule changes. Conversion factors are also being adjusted.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

### 2. IDAPA 17.02.11 - Rules Governing Security for Compensation - Self-Insured Employers

The Industrial Commission submits notice of proposed rule at IDAPA 17.02.11 - Rules Governing Security for Compensation - Self-Insured Employers. According to the Commission, the rule changes add to the requirements for public and private employers applying for approval to become self-insured, expand on the acceptable forms of security, add provisions to better ensure that security deposits are sufficient to cover the employer's liabilities and provide credit for excess insurance policies. The Commission notes that the reporting requirements and forms are also being revised to capture the outstanding liabilities of a self-insured employer for workers' compensation which helps in determining their security deposit requirements and ensures injured workers are adequately covered.

The Commission states that negotiated rulemaking was conducted through a subcommittee of the Commission's Advisory Committee. The Commission notes that all self-insured employers in the state were invited

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

Don H. Berg, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

to attend the meetings where input was provided to the Commission. The Commission indicates that subcommittee members and the Advisory Committee members reached consensus to proceed with the changes being submitted. The rule appears to be authorized pursuant to Sections 72-508, 72-520, 72-721, 72-722 and 72-723, Idaho Code.

cc: Industrial Commission  
Mindy Montgomery  
Patti Vaughn  
Jane McClaran

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.02.09 - MEDICAL FEES

#### DOCKET NO. 17-0209-1102

### NOTICE OF RULEMAKING - PROPOSED RULEMAKING

**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 Section(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, 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 25, 2011.

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:

Provides the annual adjustment of the medical fee schedule for physician reimbursement in accordance with Section 72-803, Idaho Code. The reference to individual status codes is removed from Subsection 032.02(c)(i), due to occasional additions and deletions made by CMS that could require annual rule changes. As authorized by Section 72-803, Idaho Code, the Conversion Factors in Section 031 are being adjusted.

**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 as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because, as authorized by Section 72-803, Idaho Code, the Commission adopted a rule, IDAPA 17.02.09.031.05, providing for the annual adjustment of medical fee conversion factors in order to reflect any changes in inflation or market conditions. Negotiations about such changes would not be productive.

**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 Patti Vaughn, Medical Fee Schedule Analyst, 208-334-6084.

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 26, 2011.

DATED this 29<sup>th</sup> day of August, 2011.

Mindy Montgomery, Director  
Industrial Commission  
317 Main Street  
P.O. Box 83720  
Boise, Idaho 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 17-0209-1102**

**031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY PHYSICIANS UNDER THE IDAHO WORKERS' COMPENSATION LAW.**

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter “the Commission”) hereby adopts the following rule for determining acceptable charges for medical services provided by physicians under the Idaho Workers' Compensation Law. (4-7-11)

**01. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services provided by physicians. (4-7-11)

**02. Adoption of Standard for Physicians.** The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by physicians. (4-7-11)

**03. Conversion Factors.** The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<b>MEDICAL FEE SCHEDULE</b>			
<b>SERVICE CATEGORY</b>	<b>CODE RANGE(S)</b>	<b>DESCRIPTION</b>	<b>CONVERSION FACTOR</b>
Anesthesia	00000 - 09999	Anesthesia	<del>\$60.05</del> <u>60.33</u>
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$140.00
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$113.52

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Surgery - Group Four	10000 - 12999	Integumentary System	\$87.72
	20000 - 20615	Musculoskeletal System	
	29000 - 29799	Casts & Strapping	
	30000 - 39999	Respiratory & Cardiovascular	
	40000 - 49999	Digestive System	
	50000 - 59999	Urinary System	
	60000 - 60999	Endocrine System	
	62260 - 62999	Spine & Spinal Cord	
	64000 - 64549	Nerves & Nervous System	
	65000 - 69999	Eye & Ear	
Radiology	70000 - 79999	Radiology	<del>\$87.72</del> 88.54
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799	Immunization, Injections, & Infusions	\$47.00
	94000 - 94999	Pulmonary / Pulse Oximetry	
	97000 - 97799	Physical Medicine & Rehabilitation	
	97800 - 98999	Acupuncture, Osteopathy, & Chiropractic	
Medicine - Group Two	90800 - 92999	Psychiatry & Medicine	\$68.50
	93000 - 93999	Cardiography, Catheterization, & Vascular Studies	
	95000 - 96020	Allergy / Neuromuscular Procedures	
	96040 - 96999	Assessments & Special Procedures	
	99000 - 99607	E / M & Miscellaneous Services	

(4-7-11)( )

**04. Anesthesiology.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-7-11)

**05. Adjustment of Conversion Factors.** The conversion factors set out in this rule shall be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. (4-7-11)

**06. Services Without CPT Code, RVU or Conversion Factor.** The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.03, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Section 034, below. (4-7-11)

**07. Coding.** The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers

- will be reimbursed as follows: (4-7-11)
- a. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)
  - b. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)
  - c. Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)
  - d. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

THE FOLLOWING SECTION WILL BECOME EFFECTIVE JANUARY 1, 2012

PLEASE SEE THE IDAHO ADMINISTRATIVE CODE FOR THE CURRENT CODIFIED TEXT

**032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.**

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. (1-1-12)

**01. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services provided by hospitals and ambulatory surgery centers. (1-1-12)

**02. Adoption of Standards for Hospitals and ASCs.** The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. (1-1-12)

a. Critical Access and Rehabilitation Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty percent (50%). (1-1-12)

b. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand dollars (\$10,000). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, implantable hardware charges billed for services without an MS-DRG weight shall be reimbursed at the rate of actual cost plus fifty percent (50%). (1-1-12)

c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System (OPPS) APC weight in effect on the first day of January of the current calendar year. The base rate for hospital outpatient services is one hundred and thirty-eight dollars (\$138). The base rate for ASC services is ninety dollars (\$90). (1-1-12)

i. ~~If Medical services for which~~ there is no APC weight listed ~~for APC status codes A, B, C, D, E, F, G, H, K, L, M, Q, S, T, V, X, or Y, then reimbursement~~ shall be reimbursed at seventy-five percent (75%) of the reasonable charge. (~~1-1-12~~)(\_\_\_\_)

ii. Status code N items (other than implantable hardware) or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment. (1-1-12)

iii. Two or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). (1-1-12)

iv. Status code Q items with an assigned APC weight will not be discounted. (1-1-12)

**d. Hospitals Outside of Idaho.** Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no hospital fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. (1-1-12)

**e. Additional Hospital Payments.** When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. (1-1-12)

i. **Inpatient Threshold Exceeded.** When the charge for a hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 032.02.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. (1-1-12)

ii. **Inpatient Implantable Hardware.** Hospitals may seek additional reimbursement beyond the MS-DRG payment for invoiced implantable hardware where the aggregate invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed three thousand dollars (\$3,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

iii. **Outpatient Implantable Hardware.** Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the aggregate invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed one thousand dollars (\$1,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

**03. Disputes.** The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Section 034 of this rule. (1-1-12)

**04. Adjustment of Hospital and ASC Base Rates.** The Commission may periodically adjust the base rates set out in Subparagraphs 032.02.b. and 032.02.c. of this rule to reflect changes in inflation or market conditions. (1-1-12)



## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.02.11 - RULES GOVERNING SECURITY FOR COMPENSATION – SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1101

#### 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 Section(s) 72-508, 72-520, 72-721, 72-722, and 72-723, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

October 12, 2011 10:00 a.m. – 12:00 p.m.	October 20, 2011 10:00 a.m. – 12:00 p.m.	October 24, 2011 10:00 a.m. – 12:00 p.m.
Ameritel Inn – Spectrum 2501 S. 25th Street East Ammon, Idaho 83406	Best Western Coeur d’Alene Inn 700 S. Clearwater Lane 506 W. Appleway Ave. Coeur d’Alene, ID 83814	Industrial Commission 700 S. Clearwater Lane Boise, ID 83712

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: Adds to the requirements for public and private employers applying for approval to become self-insured; Expands on the acceptable forms of security; Adds provisions to better ensure that security deposits are sufficient to cover the employer’s liabilities and provides credit for excess insurance policies; Changes the reporting requirements and forms to capture the outstanding liabilities of a self-insured employer for workers’ compensation which helps in determining their security deposit requirements and ensure injured workers are adequately covered.

**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(2), Idaho Code, negotiated rulemaking was conducted through a subcommittee of the Commission’s Advisory Committee. All self-insured employers in the state of Idaho were invited to attend these meetings and those employers provided input to the Industrial Commission on the drafting of these rule revisions. Subcommittee members and the Advisory Committee members reached consensus to proceed with the changes being submitted.

**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 Jane McClaran, 334-6042.

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 26, 2010.

DATED this 17<sup>th</sup> day of August, 2011.

Nancy Beeson, Commission Secretary  
Industrial Commission  
700 S. Clearwater Lane

P.O. Box 83720  
Boise, ID 83720-0041

Phone: 208-334-6000  
Fax: 208-334-5145

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0211-1101**

**012. DEFINITIONS.**

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

**01. Compensation.** All benefits payable under the provisions of the Idaho Workers Compensation Law. ( )

**042. Indemnity Benefits.** All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. (4-7-11)

**023. Indemnity Claim.** Any claim made for the payment of indemnity benefits. (4-7-11)

**034. Payroll.** The gross amount paid by an employer for salaries, wages or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. (4-7-11)

**013. RULES GOVERNING QUALIFICATIONS OF SELF-INSURED EMPLOYERS.**

In order to be considered for approval by the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (4-7-11)

**01. Payroll.** Have an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000); (4-7-11)

**02. Application.** Submit a completed application, available from the Industrial Commission's Fiscal Section, along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal Section, at 700 S. Clearwater Lane, PO Box 83720-0041, Boise, Idaho 83720-0041; telephone (208) 334-6000. (4-7-11)

**03. Documentation.** Submit documentation satisfactory to the Commission demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement; (4-7-11)

**04. Adjuster.** Designate in writing a licensed Idaho resident adjuster; (4-7-11)

**05. Previous Claims.** Provide a history of all workers' compensation claims filed with the employer or the employer's workers' compensation carrier, as well as all compensation paid, during the previous ~~three~~ five (5) calendar years. (~~4-7-11~~)( )

**06. Excess Insurance.** Provide an insurance plan and copies of all proposed policies of excess workers' compensation insurance coverage. ( )

**07. Actuarial Study.** Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. ( )

08. Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. ( )

~~06~~9. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code; (4-7-11)

~~07~~10. Supplemental Information. Provide supplemental information as requested; (4-7-11)

~~08~~11. Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form set forth in Subsection 014.02, of this rule, in the amount of one hundred and fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000.00) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history; (4-7-11)

~~09~~12. Written Approval. Obtain written approval from the Industrial Commission. (4-7-11)

**014. CONTINUING REQUIREMENTS FOR SELF-INSURED EMPLOYERS.**

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall comply with the following requirements: (4-7-11)

**01. Payroll Requirements.** Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000); ~~if such employer was originally approved by the Commission subsequent to April 30, 1984, and two million dollars (\$2,000,000) if such employer was originally approved by the Commission prior to May 1, 1984; provided, however, that any employer who was an approved self-insured employer on July 1, 1974 need not comply with the provisions of this section.~~ Any self-insured employer that does not meet the payroll requirements of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their payroll or obtain workers' compensation coverage with an insurance carrier authorized to write workers' compensation insurance in the state of Idaho. (4-7-11)( )

**02. Security Deposit with Treasurer.** (4-7-11)

**a.** Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, ~~or~~ a self-insurer's bond in substantially the form set forth below, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000) ~~if such employer was originally approved by the Commission subsequent to April 30, 1984; and five million dollars (\$5,000,000) if such employer was originally approved by the Commission prior to May 1, 1984.~~ In addition thereto, the self-insured employer shall deposit additional security in ~~an~~ such amount equal to all outstanding and unpaid awards of as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for compensation under the Workers' Compensation Law. (4-7-11)( )

**b.** Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. ( )

**c.** Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. ( )

~~b~~d. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. (4-7-11)

~~e~~e. Any withdrawal or partial release of security deposited hereunder must be requested in writing and

approved by the Commission.

(4-7-11)

**SELF-INSURER'S COMPENSATION BOND**

KNOW ALL MEN BY THESE PRESENTS, THAT \_\_\_\_\_, a corporation of the State of \_\_\_\_\_, hereinafter called the Principal, as Principal, and the \_\_\_\_\_, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of \_\_\_\_\_ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72, Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Countersigned

By

Resident Agent

Principal

SEAL

SEAL

By

By

Samples of this form are available from the Fiscal Section of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000. (4-7-11)

**03. Maintain a Licensed Resident Adjuster.** Maintain a resident licensed claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-7-11)

- a. Investigate and adjust all claims for compensation; (4-7-11)
- b. Pay all compensation benefits due; (4-7-11)
- c. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)
- d. Enter into compensation agreements and lump sum settlements with Claimants; (4-7-11)
- e. Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

**04. File Reports.** Report to the Industrial Commission ~~at the end of each calendar quarter~~ semi-annually, or more often as required by the Commission, total unpaid liability on all outstanding and unpaid awards of compensation open claims. (4-7-11)(\_\_\_\_)

a. The semi-annual report of ~~outstanding and unpaid awards~~ total unpaid liability shall be filed with the Industrial Commission by the end of the months ~~following the end of each calendar quarter~~ of January and July. (4-7-11)(\_\_\_\_)

b. The report shall provide the aggregate number of open claims, including indemnity with medical and medical only claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. (\_\_\_\_)

~~bc.~~ The report shall be filed even if there are no ~~outstanding awards~~ open claims. In that event, the employer shall certify the fact that there are no ~~outstanding awards~~ open claims to be reported. (4-7-11)(\_\_\_\_)

~~cd.~~ The report shall be submitted on or in a format that is substantially the same as Form ~~IC36B IC-211, "Report of Outstanding Awards—Self-Insured Employers Report of Total Unpaid Liability,"~~ which follows this chapter as Appendix A. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. (4-7-11)(\_\_\_\_)

~~de.~~ The report shall be signed and certified to be correct by a corporate officer. If an employer has

designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the employer shall prepare, certify and file a consolidated report of all ~~outstanding and~~ unpaid ~~compensation awards~~ liability. (4-7-11)(\_\_\_\_)

~~e. The report shall list all outstanding awards at the beginning and end of the reporting period, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs first, along with the amount of any compensation paid on each claim during the reporting period. (4-7-11)~~

f. A self-insured employer shall also make such other reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-7-11)

**05. Submit to Audits by Industrial Commission.** Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Workers' Compensation Law. (4-7-11)

**06. Comply with Law and Rules.** Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Workers' Compensation Law. (4-7-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**271. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.**

Pursuant to Section 72-327, Idaho Code, every authorized self-insurer authorized to self-insure its workers' compensation obligations in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

**01. Filing.** The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (4-7-11)(\_\_\_\_)

**02. Form.** The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as Form IC2-327, "~~Report of Indemnity Payments~~ Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report," contained in Appendix B at the end of this chapter. (4-7-11)(\_\_\_\_)

**03. Report Required When No Indemnity Paid.** If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

**04. Penalty for Late Filing.** A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3 each year. (4-7-11)(\_\_\_\_)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

**05. Estimating Indemnity Payments for Entities That Fail to Report Timely.** If an entity required to report indemnity and medical payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (4-7-11)(\_\_\_\_)

**06. Adjustment for Overpayments or Underpayments.** Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

**APPENDIX A**

**~~IC36B – REPORT OF OUTSTANDING AWARDS – SELF-INSURED EMPLOYERS~~**

<i>(Name of Self-Insured Employer)</i> _____							
Calendar Year: _____							
<b><i>For Calendar Quarter Ending: qMarch qJune qSeptember qDecember</i></b>							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<i>Date of Injury</i>	<i>Claimant Name (as shown on First Report of Injury)</i>	<i>Type of Claim</i>	<i>Total Awards</i>	<i>Compensation Paid This Report Period</i>	<i>Total Compensation Paid to Date</i>	<i>Adjustments</i>	<i>Unpaid Balance – [(4) minus (5)]</i>
<b>TOTALS</b>							

***Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041***

*I, the undersigned corporate officer of the above named self insured employer, do hereby certify that this report is complete and accurate to the best of my knowledge.*

***Corporate Officer's Signature:*** \_\_\_\_\_

***Title:*** \_\_\_\_\_

***Printed Name:*** \_\_\_\_\_

**Date:-** \_\_\_\_\_

**Name and Title of Preparer:-** \_\_\_\_\_

**Company:-** \_\_\_\_\_

**Address:-** \_\_\_\_\_

**Telephone:-** \_\_\_\_\_ **E-Mail Address:-** \_\_\_\_\_

**Page** \_\_\_\_\_ **Of** \_\_\_\_\_

**APPENDIX A**

<b>IC-211, SELF- INSURED EMPLOYER REPORT OF TOTAL UNPAID LIABILITY</b>							
(Name of Self-Insured Employer)							
Calendar Year: _____							
For Calendar Semiannual Period Ending and As Of:						June	December
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total Number of Open Claims	Total Incurred Medical Only	Total Paid Medical Only	Total Unpaid Medical Only (2 – 3 = 4)	Total Incurred Indemnity incl. Medical	Total Paid Indemnity incl. Medical	Total Unpaid Indemnity (5 – 6 = 7)	Total Unpaid Liability (4 + 7 = 8)
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Note: Report Open Claim Totals for All Previous Periods of Self Insurance in Idaho.							
<b>Total Unpaid Liability from Column 8:</b>							<b>\$0.00</b>
<b>Excess Insurance Carrier Reimbursement Expected:</b>							<b>\$0.00</b>
<b>Net Remaining Unpaid Liability:</b>							<b>\$0.00</b>
Note: Credit for Excess Insurance is contingent upon meeting criteria acceptable to the Idaho Industrial Commission.							
<b>Excess Carrier Reimbursement Detail:</b>							





County of \_\_\_\_\_ )  
 \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.

Signature of Preparer  
 \_\_\_\_\_

Title of Preparer  
 \_\_\_\_\_

SUBSCRIBED AND SWORN to before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public for \_\_\_\_\_.

Residing at \_\_\_\_\_.

My term expires: \_\_\_\_\_.

**APPENDIX B**

<b>Idaho Industrial Commission</b>	<b>Physical mail address:</b>
<b>P.O. Box 83720</b>	<b>700 S. Clearwater Lane</b>
<b>Boise, Idaho 83720-0041</b>	<b>Boise, Idaho 83712</b>
<b><u>IC2-327 - Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report</u></b>	
Company Name and Address	FEIN:
	Reporting period:
<b><u>MEDICAL ONLY CLAIMS:</u></b>	
(A) Total number of <b>medical-only claims</b> on which payments were made during the reporting period:	
(B) Total amount paid on <b>medical-only claims</b> during the reporting period:	\$ _____
<b><u>INDEMNITY CLAIMS</u></b>	
(C) Total number of <b>indemnity claims</b> on which payments (including any medical payments) were made during the reporting period:	
(C) Total amount of <b>indemnity payments</b> (not including medical payments) during the reporting period:	\$ _____
Total amount of all <b>indemnity claims payments</b> (including medical payments on indemnity claims only.)	\$ _____
<b><u>Certification</u></b>	

