

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Administration:  
IDAPA 38.03.01 - Rules Governing Group Insurance (Docket No. 38-0301-1101).

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 09/21/2011. 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 10/19/2011.

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

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*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 - Brooke Murdoch  
**DATE:** September 01, 2011  
**SUBJECT:** Department of Administration

IDAPA 38.03.01 - Rules Governing Group Insurance (Docket No. 38-0301-1101)

The Department of Administration submits notice of temporary and proposed rulemaking at IDAPA 38.03.01 - Rules Governing Group Insurance. According to the Department, the purpose of this rulemaking is to comply with federal law. The temporary and proposed rule raises the age limit of eligible dependents of eligible active state employees and eligible state retirees, revises the definition of "eligible retiree" consistent with the provisions of Section 67-5761(3), Idaho Code and revises deadline requirements for reimbursement requests for out-of-pocket prescription medication expenses.

The Department states that negotiated rulemaking was not conducted because the rule was prompted by mandates in federal law.

The proposed rule is within the authority granted to the Director of the Department of Administration in Section 67-5761, Idaho Code.

cc: Department of Administration  
Cynthia Ness, Program Manager

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

**38.03.01 - RULES GOVERNING GROUP INSURANCE**

**DOCKET NO. 38-0301-1101**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2011.

**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 67-5701, 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 September 21, 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 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:

To comply with Federal Law to raise State Employee and State Retirees dependent's eligibility age limits.

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

Compliance with deadline in amendments to governing law or federal programs.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of a need to do temporary rule making to comply with mandated federal law.

**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: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cynthia Ness 332-1865.

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 September 28, 2011.

DATED this July 6, 2011.

Cynthia Ness, Program Manager  
Department of Administration  
Office of Group Insurance  
304 N. 8th Street, Room 432  
P.O. Box 83720  
Boise, Idaho 83720-0035  
Phone: 332-1865; Fax: 332-1888

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 38-0301-1101

011. DEFINITIONS.

01. **Child.** Child includes a natural child, stepchild, adopted child or child in the process of adoption from the time placed with the eligible active employee or eligible retiree. The term also includes a child legally dependent upon the eligible active employee, the eligible active employee's spouse, the eligible retiree or the eligible retiree's spouse for support where a normal parent-child relationship exists with the expectation that the eligible active employee or eligible retiree will continue to rear that child to adulthood. The definition does not include a child where one or both of that child's natural parents live in the same household with the eligible active employee or eligible retiree, as a parent-child relationship is not deemed to exist even though the eligible active employee, eligible retiree or their spouses provide support. (3-29-10)

02. **Date of Hire.** The first day an individual begins work for the state or his employer. (3-29-10)

03. **Director.** The director of the Department of Administration. (3-29-10)

04. **Eligible Active Employee.** An officer or employee of a state agency, department or institution, including a state official, elected official or employee of another governmental entity which has contracted with the state of Idaho for group insurance coverage, who is working twenty (20) hours or more per week, and whose term of employment is expected to exceed five (5) consecutive months. (3-29-10)

05. **Eligible Dependent of an Eligible Active Employee.** An eligible dependent of an eligible active employee who is enrolled in group insurance, is a person who is any of the following: (3-29-10)

a. The spouse of an eligible active employee. (3-29-10)

b. ~~An unmarried child under up to the age of twenty-one -six (2+6) of an eligible active employee or an eligible active employee's spouse, unless the dependent child is eligible to enroll in their own employer based group coverage.~~ (3-29-10)(7-1-11)T

~~e. An unmarried child under the age of twenty five (25) who is legally dependent upon the eligible active employee or the eligible active employee's spouse for support where a normal parent-child relationship exists with the expectation that the eligible active employee will continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible active employee's most recent United States Individual Income Tax return.~~ (3-29-10)

06. **Eligible Dependent of an Eligible Retiree.** An eligible dependent of an eligible retiree who is enrolled in group insurance, is a person who is any of the following: (3-29-10)

a. The non-Medicare-eligible spouse of an eligible retiree. (3-29-10)

b. ~~An unmarried child under up to the age of twenty-one -six (2+6) of an eligible retiree or an eligible retiree's spouse, unless the dependent child is eligible to enroll in their own employer based group coverage.~~ (3-29-10)(7-1-11)T

~~e. An unmarried child under the age of twenty five (25) who is legally dependent upon the eligible retiree or the eligible retiree's spouse for support where a normal parent-child relationship exists with the expectation that the eligible retiree will continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible retiree's most recent United States Individual Income Tax return.~~ (3-29-10)

07. **Eligible Retiree.** A person who is any of the following: (3-29-10)

a. An officer or employee of a state agency, department or institution, including state and elected

officials, who retired on or before June 30, 2009, and who is not Medicare eligible. (3-29-10)

**b.** An officer or employee of a state agency, department or institution, including state and elected officials, who meets all of the following: (3-29-10)

i. He retires after June 30, 2009, and retires directly from state employment. (3-29-10)

ii. He is not Medicare eligible. (3-29-10)

iii. He was hired on or before June 30, 2009, ~~or~~ **and** has at least twenty thousand eight hundred (20,800) credited state service hours on or before June 30, 2009, is reemployed, reelected or reappointed after June 30, 2009, and accrues an additional six thousand two hundred forty (6,240) continuous credited state service hours. ~~(3-29-10)~~(7-1-11)T

**c.** A person receiving benefits from a state of Idaho retirement system who has at least ~~ten (10) years~~ ~~or~~ twenty thousand eight hundred (20,800) credited state service hours in a state of Idaho retirement system, and who is not Medicare eligible. ~~(3-29-10)~~(7-1-11)T

**08. Group Insurance.** Medical, dental, vision, life, disability and other types of insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide such insurance to eligible active employees, eligible retirees and their dependents. (3-29-10)

**09. Health Care Coverage.** Medical insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide medical insurance to eligible active employees, eligible retirees and their dependents. (3-29-10)

**10. Medicare Coverage Gap.** Under a Medicare-supplement plan, there is a gap in coverage for prescription medications between the initial coverage limit (two thousand seven hundred dollars (\$2,700) in 2009) and the catastrophic coverage threshold (four thousand three hundred fifty dollars (\$4,350) in 2009). Within this gap, the Medicare recipient pays one hundred percent (100%) of the cost of prescription medications before catastrophic coverage begins. (3-29-10)

**11. Medicare Eligible.** A person who is age sixty-five (65) or older and qualifies to receive Medicare. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. LOSS OF ELIGIBILITY.**

**01. Eligible Active Employee Separation.** An eligible active employee and his dependents are no longer eligible for group insurance when the employee separates employment. An employee or former employee may be qualified to extend group insurance coverage after separation under provisions of federal and state law. (3-29-10)

**02. ~~Unmarried Eligible Dependents~~ ~~Child At or Over Age Twenty Five.~~ ~~An unmarried child under the age of twenty five (25) who is legally dependent upon the eligible active employee or eligible retiree for support where a normal parent-child relationship exists with the expectation that the eligible employee or eligible retiree will continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible active employee's or eligible retiree's most recent United States Individual Income Tax return, is no longer eligible for group insurance at the end of the calendar month the child becomes twenty five (25) years old. An Eligible Dependent loses coverage when he no longer meets eligibility requirements in Subsection 011.05 of this rule. Group insurance coverage will terminate on the last day of the month in which the child turns 26.~~ ~~(3-29-10)~~(7-1-11)T**

**03. Retiree Becomes Medicare Eligible.** A retiree is no longer eligible for health care coverage when the retiree becomes Medicare eligible. A Medicare-eligible retiree's dependent spouse, who is not Medicare eligible,

and eligible dependent children, remain eligible for health care coverage until the spouse becomes Medicare eligible. (3-29-10)

**04. Retiree's Dependent Spouse Becomes Medicare Eligible.** A retiree's dependent spouse and ~~other dependents~~ children are no longer eligible for health care coverage when the retiree's dependent spouse becomes Medicare eligible. ~~(3-29-10)~~(7-1-11)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. MEDICARE PRESCRIPTION MEDICATION REIMBURSEMENT PROGRAM.**

Effective January 1, 2010 through December 31, 201~~4~~3, any Medicare-eligible retiree or his Medicare-eligible dependent spouse, who is no longer eligible for health care coverage due to Medicare eligibility, may petition the director for reimbursement of prescription medications up to, but not to exceed, two thousand dollars (\$2,000) per calendar year, per Medicare-eligible retiree and per Medicare-eligible dependent spouse. ~~(3-29-10)~~(7-1-11)T

**01. Eligibility for Medicare Prescription Medication Reimbursement.** If an eligible retiree or his eligible dependent spouse meet the following conditions, he can request reimbursement for his respective out-of-pocket expenses for prescription medications. Each individual must meet all criteria each calendar year: (3-29-10)

**a.** The Medicare-eligible retiree or his Medicare-eligible dependent spouse has met or exceeded the initial Medicare coverage limit for prescription medication expenses under his Medicare-supplement plan. (3-29-10)

**b.** The Medicare-eligible retiree or his Medicare-eligible dependent spouse is in the Medicare coverage gap, and has paid two thousand dollars (\$2,000) or more out of pocket for prescription medications. (3-29-10)

**c.** The Medicare-eligible retiree's or his Medicare-eligible dependent spouse's total out-of-pocket prescription medication expenses have not exceeded the Medicare catastrophic coverage threshold. (3-29-10)

**02. Deadline to Request Reimbursement from the Director.** A Medicare-eligible retiree or his Medicare-eligible dependent spouse must submit a petition and a request for reimbursement to the director on or before March 31 of each year for the petition and request to be considered timely. (3-29-10)

**a.** All reimbursement requests for ~~2010~~ out-of-pocket prescription medication expenses must be received on or before March 31, ~~2011, and requests for 2011 out-of-pocket prescription medication expenses must be received on or before March 31, 2012;~~ of the following calendar year to be considered. Petitions and reimbursement requests received after March 31, ~~2011 (for 2010 expenses), and March 31, 2012 (for 2011 expenses);~~ of the covered year will be denied for being untimely. ~~(3-29-10)~~(7-1-11)T

**03. Contents of the Petition and Reimbursement Requests.** The Medicare-eligible retiree's or Medicare-eligible dependent spouse's petition and reimbursement request shall specifically state the reasons why the director should grant the Medicare-eligible retiree's or the Medicare-eligible dependent spouse's petition and reimbursement request, including but not limited to evidence that the petitioner has met all of the eligibility criteria above. (3-29-10)

**a.** Reimbursement requests must include all of the following information on an itemized receipt or statement: (3-29-10)

**i.** Date of service. (3-29-10)

**ii.** Description of prescription medication. (3-29-10)

**iii.** Total amount of expenses. (3-29-10)

- iv. Patient name. (3-29-10)
- v. Any amount covered by other insurance, if applicable. (3-29-10)

**04. Director's Review of the Petition and Reimbursement Request.** The director shall review the petition and reimbursement request, and may ask for additional information or documentation from the petitioner to assist the director in reaching a decision on the petition and reimbursement request. (3-29-10)

**05. Director's Decision of the Petition and Reimbursement Request.** The director shall approve or deny the petition and reimbursement request, and shall provide reasons for any denial within ten (10) business days after receipt of the petition or the receipt of requested information or documentation, whichever is later. (3-29-10)

**06. Appeal of Denial.** A petitioner may appeal the director's denial within thirty (30) days of the denial. The appeal shall state the reasons why the director's decision is in error. The appeal shall be reviewed by the Group Insurance Advisory Committee within thirty (30) calendar days of receipt of the appeal. (3-29-10)

**a.** The Group Insurance Advisory Committee may review the appeal and make a decision on the basis of the information and documentation provided by the Medicare-eligible retiree or his Medicare-eligible dependent spouse, may request additional information or documentation, and may take written or oral testimony. (3-29-10)

**b.** The Group Insurance Advisory Committee shall issue a written decision on the Medicare-eligible retiree's or his Medicare-eligible dependent spouse's appeal within ninety (90) days of the date of the appeal. (3-29-10)

**c.** The Group Insurance Advisory Committee shall deny any appeal for any of the following reasons: (3-29-10)

- i. The individual is not Medicare eligible. (3-29-10)
- ii. The individual has not yet retired from state employment. (3-29-10)
- iii. The Medicare-eligible retiree or the Medicare-eligible dependent spouse has not met all of the criteria described in Subsection 040.01 of these rules. (3-29-10)
- iv. The appeal is untimely or the original petition was submitted untimely. (3-29-10)

**07. Subsequent Reimbursement Requests After Approval of Petition.** A Medicare-eligible retiree or his Medicare-eligible dependent spouse, whose petition for prescription medication reimbursement has been approved by the director, may submit subsequent requests for reimbursement to the Office of Group Insurance, until the individual has received two thousand dollars (\$2000) for reimbursed prescription medication, per calendar year, under these rules. (3-29-10)

**08. Reimbursement Considered Taxable Income.** Any reimbursed prescription medication expenses by and through these rules are considered taxable income to the reimbursed party. (3-29-10)