

Dear Senators PATRICK, Martin, Schmidt, and  
Representatives HARTGEN, Anderson, King:

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

IDAPA 17.02.06 - Employers' Reports - Proposed Rule (Docket No. 17-0206-1501);

IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1501);

IDAPA 17.02.08 - Miscellaneous Provisions - Proposed Rule (Docket No. 17-0208-1501);

IDAPA 17.02.09 - Medical Fees - Proposed Rule (Docket No. 17-0209-1502);

IDAPA 17.02.10 - Administrative Rules of the Industrial Commission Under the Workers'  
Compensation Law – Security for Compensation – Insurance Carriers - Proposed Rule  
(Docket No. 17-0210-1501);

IDAPA 17.02.11 - Administrative Rules of the Industrial Commission Under the Workers'  
Compensation Law – Security for Compensation – Self-insured Employers - Proposed  
Rule (Docket No. 17-0211-1501).

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 11/05/2015. 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 12/07/2015.

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.



# Legislative Services Office

## Idaho State Legislature

Eric Milstead  
Director

*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:** Legislative Research Analyst - Elizabeth Bowen  
**DATE:** October 19, 2015  
**SUBJECT:** Industrial Commission

IDAPA 17.02.06 - Employers' Reports - Proposed Rule (Docket No. 17-0206-1501)

IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1501)

IDAPA 17.02.08 - Miscellaneous Provisions - Proposed Rule (Docket No. 17-0208-1501)

IDAPA 17.02.09 - Medical Fees - Proposed Rule (Docket No. 17-0209-1502)

IDAPA 17.02.10 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers - Proposed Rule (Docket No. 17-0210-1501)

IDAPA 17.02.11 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-insured Employers - Proposed Rule (Docket No. 17-0211-1501)

The Industrial Commission submits notice of proposed rulemaking at IDAPA 17.02.06 through IDAPA 17.02.11.

#### 17.02.06

The Commission is planning to implement EDI, an electronic interchange of documents. The proposed rule deletes a paper form that appears in rule and directs users to the Commission's website to find a similar electronic form.

Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-432, 72-508, and 72-602, Idaho Code.

#### 17.02.07

This proposed rule incorporates references to the EDI implementation guide and also sets requirements for sureties to provide information in accordance with EDI standards. Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-432, 72-508, 72-602, and 67-5229, Idaho Code.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

#### 17.02.08

This proposed rule allows electronic submission, through EDI, of a notice of change of status form in a worker's compensation claim. Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-508 and 72-806, Idaho Code.

#### 17.02.09

This proposed rule clarifies how outpatient hospital procedures are to be paid depending on whether a certain status code, J1, appears in the claim. Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

#### 17.02.10

This proposed rule provides definitions for "adjuster" and "claims administrator" and clarifies residency and reporting requirements for claims administrators. Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-404, 72-508, 72-707, 72-735, and 72-803, Idaho Code.

#### 17.02.11

As with the last rule, this proposed rule provides definitions for "adjuster" and "claims administrator" and clarifies residency and reporting requirements for claims administrators. (This rule pertains to self-insured employers, whereas 17.02.10 pertains to insurance carriers.) Negotiated rulemaking was conducted, and there is no negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-301, 72-508, and 72-304, Idaho Code.

cc: Industrial Commission  
Mindy Montgomery

# IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

## 17.02.06 - EMPLOYERS' REPORTS

### DOCKET NO. 17-0206-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-432, and 72-602, 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 21, 2015.

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:

The Commission intends to proceed with implementation of EDI Claims Release 3.0 ("EDI"), a secured, electronic interchange of documents. EDI would allow the submission of all relative worker's compensation claims information to be reported electronically to the Commission and would alleviate repetitive data entry.

The rule change removes the Summary of Payments ("SOP"), IC Form 6 in rule and directs constituents to the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov) to obtain a similar format for electronic submission of an SOP.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact.

**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: There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 64](#).

**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: No documents have been incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott McDougall, Benefits Administration Manager, (208) 334- 6063.

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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041  
Phone: (208) 334-6000 / Fax: (208) 334-5145

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0206-1501  
(Only Those Sections With Amendments Are Shown.)

021. SUMMARIES OF PAYMENT.

**01. Authority and Definitions.** Pursuant to Sections 72-432, 72-508, 72-602 and 72-707, Idaho Code, the Industrial Commission of the State of Idaho promulgates this rule governing the procedure for submission of summaries of payment to the Industrial Commission. This procedure applies to all workers' compensation claims. The following definitions shall be applicable to this Rule. (2-20-95)

**ka.** "Closure," means that the file will be retired following an audit by the Commission. (2-20-95)

**ab.** "Commission," means the Idaho Industrial Commission. (2-20-95)

**fc.** "Death claim," means the injured worker died as a result of a work-related injury or occupational disease. (2-20-95)

**gd.** "Employer" is defined in Section 72-102(11), Idaho Code, and includes agents of employers such as attorneys, sureties, and adjusters. (2-20-95)

**de.** "Impairment rated claim," means those claims in which a provider establishes an impairment rating for the injured worker. (2-20-95)

**bf.** "Medical Only Claim," means the injured worker will neither suffer a disability lasting more than five calendar days as a result of a job-related injury or occupational disease nor be admitted to a hospital as an in-patient. (2-20-95)

**eg.** "Time loss claim," means the injured worker will suffer, or has suffered, a disability that lasts more than five calendar days as a result of a job-related injury or occupational disease, or the injured worker requires, or required, in-patient treatment as a result of such injury or disease. (2-20-95)

**eh.** "Termination of disability," means the date upon which the obligation of the Employer/Surety/Adjuster becomes certain as to duration and amount whether by settlement, decision or periodic payments in the ordinary course of claims processing. If resolved by lump sum settlement (LSS), the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final. (4-11-15)

**02. Summaries Requirement.** A summary of payment shall be filed, in duplicate, by the Employer/Surety/Adjuster within one hundred twenty (120) days of termination of disability for all time-loss claims upon which an Employer/Surety/Adjuster has made payments, except for those claims which are resolved by lump sum settlement. If all claim information has been provided via Electronic Data Interchange as prescribed by Commission rules, no hard copy summary of payment need be filed. In the case of medical only and related benefits only cases, no summaries of payment need to be filed. In the context of death claims and permanent total disability claims, interim summaries of payments shall be filed annually within the first quarter of each calendar year. Interim summaries shall be submitted setting forth substantially the same information required by Final Summaries of Payment, including the balance of payments made to the beginning of the current calendar year, payments during the calendar year, and a total of payments made. This total balance shall be carried forward as the amount of payments made to the beginning of the current year. The Final Summary shall be so designated. Supporting documentation shall be attached to any summary of payment filed with the Commission. (3-30-07)(\_\_\_\_\_)

**03. Form.** The summary of payment forms are available, pre-printed, from the Industrial Commission, which has designated the form as IC Form 6. The summary of payment shall be submitted on eight and one half by

~~eleven inch (8 1/2" X 11") paper in a format substantially similar to the following:~~ in a format substantially similar to IC Form 6, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov).  
(2-20-95)( )

*a. For death claims:*

**SUMMARY OF PAYMENTS**

**FATAL CASE**

Surety No. \_\_\_\_\_ I.C. No. \_\_\_\_\_  
Injured Person: \_\_\_\_\_ Employer: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Character of Injury: \_\_\_\_\_  
Date of Accident: \_\_\_\_\_ Actual Weekly Wages: \_\_\_\_\_

**DEPENDENTS**

Name of Dependent	Relationship	Date of Birth (if under 18)
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**AWARDS OF PAYMENTS**

**COMPENSATION**

Payments % AWSW	Amount	Weeks	Total	Remarks
Total Compensation Payments:				

**BURIAL AND OTHER EXPENSES**

Payment for funeral expenses \$ \_\_\_\_\_ Payment to hospital(s) \$ \_\_\_\_\_  
Payment to doctor(s) \$ \_\_\_\_\_ Payment for misc. \$ \_\_\_\_\_  
Total Medical Expenses (do not include funeral expenses) \$ \_\_\_\_\_  
COMMENTS:

Claims Examiner \_\_\_\_\_

Date \_\_\_\_\_

**INDUSTRIAL COMMISSION APPROVAL**

APPROVED: \_\_\_\_\_, 20\_\_\_\_

BY: \_\_\_\_\_

(2-20-95)

*b. For time-loss claims*

**SUMMARY OF PAYMENTS**

**TIME-LOSS CASE**

Surety No. \_\_\_\_\_ I.C. No. \_\_\_\_\_  
Injured Person: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Employer: \_\_\_\_\_  
Address: \_\_\_\_\_ Address: \_\_\_\_\_  
Character of Injury: \_\_\_\_\_

*Date of Accident:*  
*Date Able to Resume Work:*  
*Rate:*  
*Actual Time Lost:*  
*Date of First Payment:*

*Actual Weekly Wages:*  
*Compensation*

*Weeks* *Days*

**AWARDS OF PAYMENTS**

<i>Payments of Compensation</i>		<i>Amount</i>	<i>Type (TT or PP)</i>
<i>Begin</i>	<i>Weeks</i>	<i>Days</i>	<i>Return to Work</i>
<i>Payment of Medical Benefits</i>		<i>Amount</i>	
<i>Doctor(s)</i>			
<i>Hospital(s)</i>			
<i>Physical Therapy</i>			
<i>Mileage</i>			
<i>Miscellaneous</i>			
<i>Comments:</i>			
<i>Claims Examiner</i>		<i>Date</i>	

**INDUSTRIAL COMMISSION APPROVAL**

*APPROVED:-* \_\_\_\_\_, 20

*BY:-*

(2-20-95)

**04. Approval.** Within ninety (90) days of receipt of Summary of Payment as set forth above, the Industrial Commission shall notify the Employer/Surety/Adjuster that such summary has been approved or shall notify of its inability to reconcile the summary to its records and request additional information. If the Employer/Surety/Adjuster does not receive either an approval or request for additional information within the ninety (90) day period, the Employer/Surety/Adjuster may proceed with closure. In the event the Commission requests additional information, whether in writing or telephonic, the Employer/Surety/Adjuster shall submit the requested information within fifteen (15) working days. If the Employer/Surety/Adjuster is unable to furnish the requested information, the Employer/Surety/Adjuster shall notify the Commission, in writing, of its inability to respond and the reasons therefor within the fifteen (15) working days. The Commission may schedule a show cause hearing to determine whether or not the Employer/Surety/Adjuster should be allowed to continue its status under the workers' compensation laws, including whether the Employer should be allowed to continue self-insured status. (3-30-07)

**05. Changes in Status.** In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and death claim within one hundred twenty (120) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. (4-11-15)

## IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

### 17.02.07 - PROCEDURES TO OBTAIN COMPENSATION

DOCKET NO. 17-0207-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-432, 72-602, and 67-5229, 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 21, 2015.

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:

The Commission intends to proceed with implementation of EDI Claims Release 3.0 (“EDI”), a secured, electronic interchange of documents that would allow the submission of all relative worker’s compensation claims information be reported electronically to the Commission. EDI would alleviate repetitive data entry.

The rule amendments would allow the Commission to adopt and incorporate by reference in rule the industry standard of the current International Association of Industrial Accident Boards and Commissions (“IAIABC”) EDI Claims Release 3.0 Implementation Guide, published January 1, 2015 (“EDI Implementation Guide”) and located on the IAIABC website; and Version 1.2 of the Idaho Industrial Commission Claims EDI Implementation Guide and Tables (“EDI Guide and Tables”). Updates to the EDI Guide and Tables would be made available on the IIC website. The rule amendments would further set forth the requirements of sureties to provide information in accordance with EDI reporting standards.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There is no fiscal impact.

**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:

There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 65](#).

**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:

The International Association of Industrial Accidents Boards and Commissions (‘IAIABC’) provides national standards for EDI Claims Release 3.0. Incorporation by reference is necessary to ensure that state rules are consistent with these national standards by incorporating the IAIABC EDI Claims Release 3.0 Implementation Guide. To clarify which national standards Idaho adopts, the Idaho-specific standards are contained in the Idaho Industrial Commission EDI Claims Implementation Guide and Trading Partner Tables, which is also incorporated by reference. The information for obtaining a copy of the Idaho Industrial Commission EDI Claims Implementation Guide and Trading Partner Tables and the IAIABC EDI Claims Release 3.0 Implementation Guide are included in the rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott McDougall, Benefits Administration Manager, (208) 334- 6063.

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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041  
Phone: (208) 334-6000 / Fax: (208) 334-5145

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0207-1501  
(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

The Idaho Industrial Commission hereby adopts and incorporates by reference the following: ( )

**01. EDI Guide and Tables.** Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables, Version 1.2 (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available at the Commission’s website at [www.iic.idaho.gov](http://www.iic.idaho.gov). ( )

**02. EDI Implementation Guide.** International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 Implementation Guide - January 1, 2015 Publication (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 Implementation Guide is available at the IAIABC website at [www.iaiaabc.org](http://www.iaiaabc.org). ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

Idaho Industrial Commission office hours are Monday through Friday, 8:00 am to 5:00 pm. The mailing address for filing documents is: Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission’s office is located at: 700 S. Clearwater Lane, Boise, ID 83712. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

This rule is subject to and in compliance with the Public Records Act. ( )

**0047. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The following definitions shall be applicable to these rules. (7-1-97)

**01. Adjuster.** An individual who adjusts workers’ compensation claims. ( )

**02. Claim.** Means The making of a request with the Commission for benefits payable under the Idaho Workers’ Compensation Act, either by filing Industrial Commission (IC) Form 1A-1 entitled “Workers Compensation First Report of Injury or Illness,” ~~if or by filing~~ an application for hearing, referred to as a Complaint in the Judicial Rules, ~~has been filed~~ with the Commission, ~~the IC Form 1A-1 is not required.~~ (7-1-97)( )

**053. Claimant.** Means a worker who is seeking to recover benefits under the Workers’ Compensation Law. (7-1-97)( )

**04. Claims Administrator.** An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. ( )

**045. Commission.** ~~Means~~ The Idaho Industrial Commission. (7-1-97)( )

**046. Employer.** ~~As~~ defined in Section 72-102(44), Idaho Code, and, for the purposes of these rules, includes sureties and adjusters. (7-1-97)( )

**07. IAIABC EDI Release 3.0.** The IAIABC authored EDI Release 3.0 standards that cover the transmission of Claims (FROI and SROI), information through electronic reporting. ( )

**08. Legacy Claim.** A First Report of Injury that was filed prior to the date specified in Subsection 012.02.b. of these rules. ( )

**039. Notice.** ~~Means~~ b Both the employer's actual and constructive knowledge of the accident, injury, or occupational disease. (7-1-97)( )

**10. Trading Partner.** An insurance carrier, self-insured employer, or Claims Administrator that has entered into a Trading Partner Agreement with the Commission. ( )

**11. Trading Partner Agreement.** An agreement between the Idaho Industrial Commission and a trading partner that sets out the terms and conditions for the electronic reporting of information to the Commission. ( )

#### **011. ABBREVIATIONS.**

**01. EDI.** Electronic Data Interchange -- a computer-to-computer exchange of data in a standardized format. ( )

**02. FROI.** The First Report of Injury -- the first filing of information with the Industrial Commission that a reportable workplace injury has occurred or an occupational disease has been manifested, as required by Section 72-602(1), Idaho Code; filed in accordance with these rules. ( )

**03. IAIABC.** International Association of Industrial Accidents Boards and Commissions -- a not-for-profit trade association whose members are industrial accident, workers' compensation or other governmental bodies as well as associate members comprised of other industry-related organizations and individuals. ( )

**04. SROI.** The filing of a Supplemental or Subsequent Report of Injury -- the filing of additional information with the Industrial Commission, regarding benefits paid or changes in the status or condition of an injured worker, of a claim for benefits, as required by Sections 72-602(2), (3), and (4), Idaho Code; filed in accordance with these rules. ( )

#### **0142. SUBMISSION OF FIRST REPORTS OF INJURY AND CLAIMS FOR COMPENSATION TO THE INDUSTRIAL COMMISSION.**

**01. Purpose.** The Industrial Commission seeks to develop a form for reporting work-related injuries and occupational diseases that is compatible with emerging standards for electronic submission of data. This will allow for more timely entry of information into the database system from which statistical reports are generated by the Commission, reduce the paper that the Commission currently receives, and is expected to reduce the cost of reporting for ~~sureties~~ insurance carriers, employers and the Commission. (7-1-97)( )

**02. Procedure for Submitting Claims.** ~~In order to comply with Section 72-602, Idaho Code, Form IA-1 shall be submitted to the Commission in substantially the same form as set forth below. At such time as the Commission institutes a system for on-line reporting of claims, claims may be submitted electronically. Fields that require clarification are listed below with explanations and/or applicable coding information:~~ (7-1-97)( )

- ~~a. Dates: Use MM/DD/YYYY format. (7-1-97)~~
- ~~b. SIC Code: Code that represents the nature of employer's business as it is contained in the Standard Industrial Classification Manual published by the Federal Office of Management and Budget. (7-1-97)~~
- ~~c. Carrier: The surety issuing a contract of insurance and assuming financial responsibility on behalf of the employer of the claimant. In the case of a self-insured, the self-insured's information should be submitted. (7-1-97)~~
- ~~d. Claims Administrator: The name of the surety, adjuster, state fund, or self-insured responsible for administering the claim. (7-1-97)~~
- ~~e. Employment status: This is the claimant's work status. The valid choices are full-time, not employed, disabled, unknown, part time apprentice, seasonal, part time, on strike, retired, full time apprentice, volunteer, or piece worker. (7-1-97)~~
- ~~f. Date disability began: The first day on which the claimant lost time from work due to the injury or disease. (7-1-97)~~
- ~~g. Type of injury/illness: Brief description of nature of injury or illness or the appropriate National Council on Compensation Insurance (NCCI) Detailed Claim Information (DCI) code. (7-1-97)~~
- ~~h. Part of body affected: Brief description or the appropriate DCI code(s). (7-1-97)~~
- ~~i. Department or location where accident or illness exposure occurred: Enter requested information or, if the accident or illness exposure did not occur on the employer's premises, enter address or location as specifically as possible. (7-1-97)~~
- ~~j. Nature of injury: Brief description or the appropriate DCI code(s). (7-1-97)~~
- ~~k. Work process the employee was engaged in when accident or illness exposure occurred: Describe the work process the employee was engaged in when the accident or illness exposure occurred, such as building maintenance. Enter "NA" for not applicable if employee was not engaged in a work process. (7-1-97)~~

a. FROI Reporting Prior to EDI Mandate. Prior to July 1, 2017, all FROI information shall be submitted to the Commission on single-sided eight and one-half inch by eleven inch (8½" x 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). At the Commission's discretion, claims may be submitted electronically in accordance with EDI Release 1.0 standards and any additional requirements of the Commission. ( )

b. FROI & SROI EDI Reporting. The Commission will require electronic submission of a First Report of Injury (FROI), effective July 1, 2017, and a Supplemental or Subsequent Report of Injury (SROI), effective July 1, 2017, in accordance with IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables, for insurance carriers, in-state Claims Administrators, and self-insured employers, as those entities are not otherwise exempted by these rules. ( )

c. Trading Partner Agreements. Before commencing electronic reporting, self-insured employers and insurance carriers shall sign a Trading Partner Agreement with the Commission, which must be approved by the Commission prior to initial data submission. This agreement will provide the effective date to send and receive electronic reports, which may be earlier but not later than the date above in Paragraph 012.02.b., the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. To ensure the accuracy of reported data, the Commission may make periodic audits of insurance carrier and self-insured employer files. In the event that a Trading Partner Agreement is entered into by a claims administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. ( )

d. FROI. Each electronic First Report of Injury (FROI) must comply with the formatting requirements

of the IAIABC EDI Claims Release 3.0 Implementation Guide and Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. ( )

e. SROI. Each electronic Supplemental or Subsequent Report of Injury (SROI) must comply with the formatting requirements of the IAIABC EDI Claims Release 3.0 Implementation Guide and the Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. ( )

f. Report Form and Content for Parties Exempt from EDI Requirements: ( )

i. Individual injured workers, injured workers' legal counsel, and employers that are not insured are not required to comply with IAIABC EDI requirements for filing of the FROI and SROI. SROIs filed on legacy claims will not be accepted via IAIABC EDI Release 3.0 standards. ( )

ii. Employers that are not insured, individual injured workers, and injured workers' legal counsel shall submit all FROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. ( )

iii. Employers that are not insured, individual injured workers, and injured workers' legal counsel, shall submit all SROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form SROI-1. Form SROI-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. ( )

**03. Retaining Claims Files.** All employers insurance carriers and their claims administrators shall maintain their respective claim files in accordance with IDAPA 17.02.10, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers," Section 051. IDAPA 17.02.11, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation -- Self-Insured Employers," Section 051. Upon request of the Commission, insurance carriers, claims administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. (7-1-97)( )

**a.** All insurance carriers, claims administrators, or employers shall retain complete copies of claims files for the life of the claim or a minimum of five (5) years from the date of closure, whichever is shorter. (7-1-97)( )

**b.** For time-loss claims, closure will be the date upon which the insurance carrier, claims administrator, or employer files the final summary of payments, either as an appropriate EDI transaction, or as a hardcopy document for legacy claims. The Commission recommends that an insurance carrier, claims administrator, or employer retain a closed claim file for a minimum of five (5) years. (7-1-97)( )

**04. Filing Not an Admission.** Filing a claim is not an admission of liability and is not conclusive evidence of any fact stated therein. If a claim is submitted electronically, no signatures are required. (7-1-97)

**05. Filing Considered Authorization.** Filing of a claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the claimant is seeking compensation. (7-1-97)

~~**06. Report Form and Content.**~~ (7-1-97)

~~**a.** The Notice of Injury and Claim for Benefits required by this rule shall be submitted on eight and one half by eleven inches (8 1/2" X 11") paper in a format substantially similar to that which follows. If the employer seeks to request additional information, the employer shall submit the proposed changes to the Commission for approval. Changes shall not be implemented prior to the receipt of the Commission's approval.~~ (7-1-97)

~~**b.** Employers wishing to report electronically shall sign a written information sharing agreement with~~

~~the Commission. This agreement will provide the effective date to send and receive electronic reports, the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. The agreement must be signed by the employer and approved by the Commission prior to initial data submission. To ensure the accuracy of reported data, the Commission may make periodic audits of employer files. (7-1-97)~~

**076. Timely Response Requirement.** When the Commission requests additional information in order to process the Claim, the claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (7-1-97)( )

**0123. -- 999. (RESERVED)**

# IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

## 17.02.08 - MISCELLANEOUS PROVISIONS

### DOCKET NO. 17-0208-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, and 72-806, 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 21, 2015.

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:

The Commission intends to proceed with implementation of EDI Claims Release 3.0 ("EDI"), a secured, electronic interchange of documents that would allow the submission of all relative worker's compensation claims information be reported electronically to the Commission. EDI would alleviate the repetitive data entry and bring increased productivity in its claims and benefits department that would result in less paper being generated at the agency.

The rule change would allow the electronic submission of a notice of change of status ("COS") in a worker's compensation claim be submitted to the Commission through EDI, rather than submission in the current paper form.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There is no fiscal impact.

**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:

There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 67](#).

**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:

No documents have been incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott McDougall, Benefits Administration Manager, (208) 334- 6063.

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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041  
Phone: (208) 334-6000 / Fax: (208) 334-5145

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0208-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**061. RULE GOVERNING NOTICE TO CLAIMANTS OF STATUS CHANGE PURSUANT TO SECTION 72-806, IDAHO CODE.**

**01. Notice of Change of Status.** As required and defined by Idaho Code, Section 72-806, a worker shall receive written notice within fifteen (15) days of any change of status or condition. (4-7-11)

**02. By Whom Given.** Any notice to a worker required by Idaho Code, Section 72-806 shall be given by: the surety if the employer has secured Workers' Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Workers' Compensation Insurance. (4-7-11)

**03. Form of Notice.** Any notice to a worker required by Idaho Code, Section 72-806 shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given in a format substantially similar to IC Form 8, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (4-11-15)

**04. Medical Reports.** As required by Idaho Code, Section 72-806, if the change is based on a medical report, the party giving notice shall attach a copy of the report to the notice. (4-7-11)

**05. Copies of Notice.** The party giving notice pursuant to Idaho Code, Section 72-806 shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. (4-7-11)( )

# IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

## 17.02.09 - MEDICAL FEES

### DOCKET NO. 17-0209-1502

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 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 21, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule clarifies how outpatient hospital procedures are to be paid in the presence or absence of Comprehensive Ambulatory Payment Classification (C-APC) codes including status indicator J1. The coding guidelines published by Centers for Medicare & Medicaid Services (CMS) and the American Medical Association (AMA) are adopted as a standard reference for facility charges. The standard for reimbursement of rehabilitation hospitals will be changed to the same as other non-Critical Access Hospitals (CAH).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact.

**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: There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 68](#).

**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: No documents have been incorporated by reference into this rule.

**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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041  
Phone: (208) 334-6000 / Fax: (208) 334-5145

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0209-1502**  
**(Only Those Sections With Amendments Are Shown.)**

**030. DEFINITIONS.**

Words and terms used in this rule are defined in the subsections which follow. (4-7-11)

**01. Charge.** Expense or cost. For hospitals and ASCs, “charge” shall mean the total charge. (4-7-11)

**a.** “Acceptable charge.” The charge for medical services calculated in accordance with this rule or as billed by the provider, whichever is lower, or the charge agreed to pursuant to a written contract. (4-7-11)

**b.** “Customary charge.” A charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (4-7-11)

**c.** “Reasonable charge.” A charge that does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined in this rule. (4-7-11)

**d.** “Usual charge.” The most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (4-7-11)

**02. Ambulatory Payment Classification (APC).** A payment system adopted by the Center for Medicare and Medicaid Services (CMS) for outpatient services. (4-7-11)

**03. Ambulatory Surgery Center (ASC).** A facility providing medical services on an outpatient basis only. (4-7-11)

**04. Average Wholesale Price (AWP).** The average wholesale price for medicine obtained from pricing data provided by the original manufacturer of that medicine to industry-wide compilers of drug prices, e.g., Red Book and Medi-Span. (7-1-13)

**05. Critical Access Hospital.** A hospital currently designated as a critical access hospital by the Centers for Medicare and Medicaid Services (CMS). (4-7-11)

**06. Hospital.** An acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. (~~4-7-11~~)(    )

**07. Implantable Hardware.** Objects or devices that are made to support, replace or act as a missing anatomical structure or to support or manage proper biological functions or disease processes and where surgical or medical procedures are needed to insert or apply such devices and surgical or medical procedures are required to remove such devices. The term also includes equipment necessary for the proper operation of the implantable hardware, even if not implanted in the body. (4-7-11)

**08. Medical Service.** Medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply, as set forth in Section 72-102, Idaho Code. (4-7-11)

**09. Medicare Severity - Diagnosis Related Group (MS-DRG).** A system adopted by the Centers for Medicare and Medicaid Services (CMS) that groups hospital admissions based on diagnosis codes, surgical procedures and patient demographics. (4-7-11)

**10. Payor.** The legal entity responsible for paying medical benefits under Idaho’s Workers’ Compensation Law. (4-7-11)

**11. Pharmacy.** Any facility, department or other place where prescriptions are filled or compounded and are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public. (7-1-13)

**12. Physician.** A member of any healing profession licensed or authorized to provide medical services by the statutes of this state, as set forth in Section 72-102, Idaho Code. (4-7-11)

**13. Provider.** Any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which is compensable under the Idaho's Workers' Compensation Law, as set forth in Section 72-102, Idaho Code. (4-7-11)

~~**14. Rehabilitation Hospital.** A facility operated for the primary purpose of assisting with the rehabilitation of disabled persons through an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision. (4-7-11)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**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 two hundred dollars (\$10,200). 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%). ~~(7-1-15)( )~~

**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 forty dollars and seventy-five cents (\$140.75). The base rate for ASC services is ninety-one dollars and fifty cents (\$91.50). ~~(7-1-15)( )~~

**i.** Medical services for which there is no APC weight listed shall be reimbursed at seventy-five percent (75%) of the reasonable charge. (7-1-12)

**ii.** Status code N items or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment except as provided in Subsection 032.02.c.ii.(1). or 032.02.c.ii.(2). of this rule. (7-1-15)

(1) Implantable Hardware may be eligible for separate payment under Subsection 032.02.e.iii. of this rule. (7-1-15)

(2) Outpatient laboratory tests provided with no other hospital outpatient service on the same date, or outpatient laboratory tests provided on the same date of service as other hospital outpatient services that are clinically unrelated may be paid separately if billed with modifier L1. Payment shall be made in the same manner that services with no APC weight are paid under Subsection 032.02.c.i. of this rule. (7-1-15)

iii. When no medical services with a status code J1 appears on the same claim, ~~Two~~ (2) 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%). When a medical service with a status code J1 appears on the same claim, all medical services with a status code T shall be paid at fifty percent (50%). (~~1-1-12~~)(    )

iv. When no medical services with a status code J1 appears on the same claim, ~~S~~status code Q items with an assigned APC weight will not be discounted. When a medical service with a status code J1 appears on the same claim, status code Q items shall be paid at fifty percent (50%). (~~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 MSDRG 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.** 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. (    )

**034.** 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 035 of this rule. (1-1-12)

**045.** 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 - IDAHO INDUSTRIAL COMMISSION

### 17.02.10 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS

DOCKET NO. 17-0210-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-404, 72-707, 72-735, 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 21, 2015.

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:

The Commission intends to proceed with implementation of EDI Claims Release 3.0 ("EDI"), a secured, electronic interchange of documents that would allow the submission of all relative worker's compensation claims information be reported electronically to the Commission. EDI would alleviate the repetitive data entry and bring increased productivity in its claims and benefits department that would result in less paper being generated at the agency.

The proposed rule amendment defines a Claims Administrator who adjusts workers' compensation claims in the state of Idaho; and clarifies the adjuster is a resident of Idaho. The proposed rule amendment would also clarify the reports by Claims Administrators to the Commission.

The rule amendment would be necessary to comply with EDI rules; and "mirrors" the proposed amendments of 17.02.11.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There is no fiscal impact.

**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:

There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 69](#).

**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: No documents have been incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott McDougall, Benefits Administration Manager, (208) 334- 6063.

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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
Phone: (208) 334-6000 / Fax: (208) 334-5145

700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0210-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**010. DEFINITIONS.**

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

**01. Adjuster. An individual who adjusts workers' compensation claims. ( )**

**02. Claims Administrator. An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. ( )**

**03. 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)**

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

**011. (RESERVED)**

**012. RULES GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKERS' COMPENSATION LIABILITY.**

**01. Deposit With State Treasurer. To receive the approval of the Industrial Commission to write Worker's Compensation coverage under Section 72-301, Idaho Code, a carrier whose application has been approved by the Director of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, shall initially deposit security in the amount of two hundred fifty thousand dollars (\$250,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code. (4-7-11)**

**02. Application. Before the Commission shall approve any insurance carrier to do business under the Workers' Compensation Law, said carrier shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include the following: (4-7-11)**

**a.** A statement from the Director of the Idaho Department of insurance that the insurance carrier has been granted authority under the insurance laws of the state of Idaho to write casualty or surety insurance; (4-7-11)

**b.** The latest audited financial statement of said carrier; (4-7-11)

**c.** The name and address of the agent for service of process in Idaho; (4-7-11)

**d.** The name and address of the claims administrator or administrators employing an Idaho resident licensed, resident adjuster or adjusters or the insurance carrier's own in-house Idaho adjusting staff with authority to make compensation payments and adjustments of claims arising under the Act. Each claims administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. If more than one (1) adjuster claims administrator is utilized in Idaho, a list of every such adjuster claims administrator and all corresponding policyholders shall be provided; (4-7-11)( )

**e.** A statement that the carrier will provide such blank forms as are, or may be, prescribed by the

Commission and distributed to such employers as it may insure; (4-7-11)

**f.** A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer in compliance with the law for all employers insured. All carriers will use the continuous bond form set out herein; (4-7-11)

**SURETY BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the State of Idaho and the beneficiaries of awards rendered under the Workers' Compensation Law of the State of Idaho, for all sums said Principal is liable for by reason of workers' compensation policies issued to employers in the State of Idaho, insuring such employers' liability under Title 72, Idaho Code, the Workers' Compensation Law. Under the authority of Chapter 3, Title 72, Idaho Code, the liability of the Surety on this bond shall in no event exceed an amount equal to the total amount of all outstanding and unpaid compensation awards against the Principal.

In case of any default by the Principal or in the event said Principal shall fail to pay, by reason of insolvency, or because a receiver has been appointed therefor, or by reason of refusal, neglect or delay to pay any final award or awards, the State of Idaho and any beneficiaries under the Workers' Compensation Law shall have a right of action at law against said Surety immediately upon default by said Principal.

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 (2) 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 WITNESS WHEREOF, the parties hereto have caused their names to be signed and this instrument to be sealed by the respective parties thereto this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. (4-7-11)

**g.** A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, if said bonds are to be renewed; (4-7-11)

**h.** A statement that the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; (4-7-11)

**i.** A statement that said carrier will deposit, in addition to the security required for authorization to write Workers' Compensation coverage by these rules, such further security equal to all unpaid outstanding awards of compensation; (4-7-11)

**j.** A statement that said carrier will comply with the statutes of the state of Idaho and rules of the Industrial Commission to the end that payments of compensation shall be sure and certain and not unnecessarily delayed; and (4-7-11)

**k.** A statement that said carrier will make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law, including IC Form 36A, Report of Outstanding Awards – Insurance Carriers; which must be filed quarterly with the Commission. (4-7-11)

**013. RULES GOVERNING INSURANCE CARRIERS.**

An insurance carrier must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance pursuant to Section 72-301, Idaho Code. After receiving such approval, an insurance carrier shall comply with the following: (4-7-11)

**01. Maintain Statutory Security Deposits with the State Treasurer.** (4-7-11)

a. Each insurance carrier shall maintain with the Idaho State Treasurer a security deposit in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. (4-7-11)

b. In addition to the security required in Subsection 013.01.a., of this rule, each insurance carrier shall deposit an amount equal to the total unpaid outstanding awards of said insurance carrier. Such deposit shall be in the form permitted by Section 72-301, Idaho Code. Surety bonds shall be in the form set forth in Subsection 012.02.f. of these rules. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. A partial release of security deposited hereunder must be requested in writing and approved by the Commission. (3-20-14)

c. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (4-7-11)

**02. Appoint Agent for Service of Process.** Each insurance carrier shall appoint the Director of the Department of Insurance as its agent to receive service of legal process. (4-7-11)

**03. Maintain Resident Idaho Office.** Each insurance carrier shall maintain a claims administrator employing an Idaho licensed, resident adjuster or adjusters, or ~~the carrier's~~ the carrier's own adjusting offices or officers resident in Idaho who have been appointed and have been given full authority to make claims adjusting decisions and to authorize the payment of all compensation due as to claims arising under the Act. (~~4-7-11~~)(    )

a. Each authorized insurance carrier shall notify the Commission Secretary in writing of any change of the designated resident adjuster(s) for every insured Idaho employer within fifteen (15) days of such change. (4-7-11)

b. Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request. (4-7-11)

**04. Supply Forms.** Each insurance carrier shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the Employer Compliance Bureau of the Industrial Commission, telephone (208)334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-20-14)

**05. Comply with Industrial Commission Reporting Requirements.** Each insurance carrier shall, within the time prescribed, file such reports and respond to such information requests as the Industrial Commission may require from time to time concerning matters under the Workers' Compensation Law. (~~4-7-11~~)(    )

**06. Report Proof of Coverage.** (4-7-11)

a. Each insurance carrier shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-20-14)

b. As an alternative to Subsection 013.06.a., an insurance carrier may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission. (3-20-14)

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the

required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout, data element requirements, and transaction standards is available upon request from the Employer Compliance Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). Each insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. (3-20-14)

**d.** The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance carrier providing coverage. (4-7-11)

**07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days.** Each insurance carrier shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (4-7-11)

**08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute.** Each insurance carrier shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. Receipt of cancellation or nonrenewal notices by the Commission's designated agent shall be deemed to have been received by the Commission. (4-7-11)

**09. Report Election of Coverage on Form IC52 or Similar Format.** Each insurance carrier shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight and one-half by eleven inch (8 1/2" x 11") paper. (4-7-11)

**10. Report Deductible Policy.** On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible and the final premium after credit for the deductible. (3-20-14)

**11. Report Outstanding Awards.** Each insurance carrier shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award. (4-7-11)

**a.** The report of outstanding awards shall be filed with the Industrial Commission by the end of the month following the end of each calendar quarter. (4-7-11)

**b.** The report shall be filed even if there are no outstanding awards. In that event, the carrier shall certify the fact that there are no outstanding awards to be reported. (4-7-11)

**c.** The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards – Insurance Carriers" available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). 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 1/2" x 11") in size. (3-20-14)

**d.** The report shall be signed and certified to be correct by a corporate officer. If an insurance carrier has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify and file a consolidated report of outstanding awards. (4-7-11)

**e.** The report shall list all outstanding awards, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (4-7-11)

**12. Comply with Law and Rules.** Each insurance carrier shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain

and not unnecessarily delayed. (4-7-11)

**014. -- 050. (RESERVED)**

**051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.**

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

**01. Idaho Office.** (4-7-11)

**a.** All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. (4-7-11)

**b.** The insurance carrier shall authorize and require a member of its in-state staff or a resident licensed, resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: (4-7-11)( )

i. Investigate and adjust all claims for compensation; (4-7-11)

ii. Pay all compensation benefits due; (4-7-11)

iii. 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)

iv. Enter into compensation agreements and lump sum settlements with Claimants; and (4-7-11)

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

**c.** As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims administrator for each policy of workers' compensation insurance. (4-7-11)( )

**02. Claim Files.** All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

**a.** First Report of Injury and Claim for Benefits; (4-7-11)

**b.** Copies of bills for medical care; (4-7-11)

**c.** Copy of lost-time computations, if applicable; (4-7-11)

**d.** Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

**e.** Employer's Supplemental Report; and (4-7-11)

**f.** Medical reports. (4-7-11)

**03. Correspondence.** All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be mailed authorized from and maintained at in-state offices. (4-7-11)( )

**04. Date Stamp.** Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. (4-7-11)

**05. Notice and Claim.** All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or insurance carrier. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

**06. Compensation.** All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

**07. Checks and Drafts.** Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

**a.** The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit an insurance carrier to sign and issue checks outside the state of Idaho. (4-7-11)

**b.** An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

**c.** All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

**d.** If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

**08. Copies of Checks.** Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (4-7-11)( )

**09. Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

**a.** Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

**b.** Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

**10. Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

**11. Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

## IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

### 17.02.11 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-301, and 72-304, 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 21, 2015.

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:

The Commission intends to proceed with implementation of EDI Claims Release 3.0 ("EDI"), a secured, electronic interchange of documents that would allow the submission of all relative worker's compensation claims information be reported electronically to the Commission. EDI would alleviate the repetitive data entry and bring increased productivity in its claims and benefits department that would result in less paper being generated at the agency.

The proposed rule amendment defines a Claims Administrator who adjusts workers' compensation claims in the state of Idaho; and clarifies the adjuster is a resident of Idaho. The proposed rule amendment would also clarify the reports by Claims Administrators to the Commission.

The rule amendment would be necessary to comply with EDI rules; and "mirrors" the proposed amendments of 17.02.10.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There is no fiscal impact.

**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:

There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015 Idaho Administrative Bulletin, [Vol 15-5, page 70](#).

**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:

No documents have been incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott McDougall, Benefits Administration Manager, (208) 334- 6063.

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 28, 2015.

DATED this 2nd Day of September, 2015.

Mindy Montgomery, Director  
Industrial Commission  
Phone: (208) 334-6000 / Fax: (208) 334-5145

700 S. Clearwater Lane  
PO Box 83720  
Boise, Idaho 83720-0041

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0211-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**010. DEFINITIONS.**

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

**01. Adjuster.** An individual who adjusts workers' compensation claims. ( )

**02. Claims Administrator.** An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. ( )

**03. Compensation.** All benefits payable under the provisions of the Idaho Workers Compensation Law. (3-29-12)

**04. 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)

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

**04. 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)

**011. -- 012. (RESERVED)**

**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). However, if the applicant is approved to apply under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government, the employer must have an annual Idaho payroll of at least four million dollars (\$4,000,000) as of the effective date of the Commission's approval to act as a self-insured employer in Idaho. (4-11-15)

**02. Application.** Submit a completed application, available from the Industrial Commission's Fiscal Bureau, along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal Bureau, telephone (208) 334-6000. (3-20-14)

**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. Claims Adjusting.** Designate in writing a claims administrator employing an Idaho licensed, ~~Idaho~~ resident adjuster including name and address. Each claims administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. (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 five (5) calendar years. (3-29-12)

**06. Excess Insurance.** Provide an insurance plan that must include excess insurance coverage and copies of all proposed policies of excess workers' compensation insurance coverage, unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. (4-11-15)

**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. (3-29-12)

**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. (3-29-12)

**09. 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, unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. (4-11-15)

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

**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 fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000) 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, unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. (4-11-15)

**12. Initial Guaranty Agreement.** The Commission may allow or, where financial reports or other factors such as the high risk industry of the employer indicate the need, require an employer that is organized as a joint venture or a wholly owned subsidiary to provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary employer seeking to become self-insured. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-20-14)

**13. 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), unless the applicant was approved by the Commission as qualified

under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. Any self-insured employer that does not meet the payroll requirement 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. (4-11-15)

**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, 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), unless the applicant was approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. In addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for compensation under the Workers' Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. (4-11-15)

**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. (3-29-12)

**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. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. (3-20-14)

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

**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 Bureau of the Industrial Commission, Telephone (208) 334-6000, or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-20-14)

**03. Continue or Provide Guaranty Agreement.**

(3-20-14)

**a.** A self-insured employer that is organized as a joint venture or a wholly owned subsidiary shall continue in effect any guaranty agreement that the Commission has previously allowed or required, until termination is permitted by the Commission. (3-20-14)

**b.** Where an adverse change in financial condition or other relevant factors such as claims history or industry risk indicates the need, a self-insured employer that is organized as a joint venture or a wholly owned subsidiary may be allowed to, or shall upon request, provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary self-insured employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement, and as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-20-14)

**04. Maintain a Licensed Resident Adjuster.** Maintain ~~a resident~~ an Idaho licensed, resident claims adjuster located within the state of Idaho who shall have full authority to ~~service~~ make decisions and to authorize the payment of all compensation on 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)

**05. File Reports.** Report to the Industrial Commission semi-annually, or more often as required by the Commission, total unpaid liability on all open claims. (3-29-12)

**a.** The semi-annual report of total unpaid liability shall be filed with the Industrial Commission by the end of the months of January and July. (3-29-12)

**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. (3-29-12)

**c.** The report shall be filed even if there are no open claims. In that event, the employer shall certify the fact that there are no open claims to be reported. (3-29-12)

**d.** The report shall be submitted on or in a format that is substantially the same as the current Form IC-211, "Self-Insured Employer Report of Total Unpaid Liability," available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). 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. (3-20-14)

**e.** 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 unpaid liability. (3-29-12)

**f.** A self-insured employer shall also make, within the time prescribed, such other reports ~~to~~ and respond to such information requests as the Commission ~~as it~~ may require ~~in reference to~~ from time to time

concerning matters under the Workers' Compensation Law.

(4-7-11)( )

**06. 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. For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage. (3-20-14)

**07. 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)

**051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.**

All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

**01. Idaho Office.** All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. The self-insured employer shall designate and require an idaho licensed, resident adjuster to make decisions regarding claims pursuant to Section 72-305, Idaho Code. As staffing changes occur and, at least annually, the self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (4-7-11)( )

**02. Claim Files.** All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

- a. First Report of Injury and Claim for Benefits; (4-7-11)
- b. Copies of bills for medical care; (4-7-11)
- c. Copy of lost-time computations, if applicable; (4-7-11)
- d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)
- e. Employer's Supplemental Report; and (4-7-11)
- f. Medical reports. (4-7-11)

**03. Correspondence.** All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be mailed authorized from and maintained at in-state offices. (4-7-11)( )

**04. Date Stamp.** Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the self-insured employer. (4-7-11)

**05. Notice and Claim.** All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or self-insured employer. The original copy of the

First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

**06. Compensation.** All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

**07. Checks and Drafts.** Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

**a.** The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit a self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

**b.** An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the self-insured employer, attesting to the fact that the self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

**c.** All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any self-insured employer for which a waiver under this rule has been granted to assure that the self-insured employer is complying with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

**d.** If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the self-insured employer an opportunity to be heard, may revoke the waiver and order the self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

**08. Copies of Checks.** Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (~~4-7-11~~)(    )

**09. Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

**a.** Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033, and 034. (4-7-11)

**b.** Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

**10. Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

**11. Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of a self-insured employer to self-insure its workers' compensation obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)