

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives HOLTZCLAW, Anderson, Chew:

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

IDAPA 17.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket
No. 17-0000-1900).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/22/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/19/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Legislative Drafting Attorney - Matt Drake

DATE: July 2, 2019

SUBJECT: Industrial Commission

IDAPA 17.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 17-0000-1900)

The Idaho Industrial Commission submits notice of temporary and proposed rules at:

IDAPA 17.10.01, Administrative Rules Under the Crime 4Victims Compensation Act

IDAPA 17.11.01, Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act

The rulemaking adopts and re-publishes existing and previously approved chapters, but with modifications in the nature of clean-up. **No substantive changes are noted.**

This is not a fee rule.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

cc: Industrial Commission
Mindy Montgomery

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 17 – INDUSTRIAL COMMISSION

DOCKET NO. 17-0000-1900

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 72-1004, 72-1013, and 72-1104, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

ORIGINATING LOCATION – LIVE MEETING	
Idaho Industrial Commission 11321 W. Chinden Blvd. Building #2 Boise, Idaho 83714	
Tuesday, August 6th, 2019 – 2:00 p.m. to 4:00 p.m. (MDT)	
VIA VIDEOCONFERENCE	
IIC Coeur d’Alene Field Office 1111 W. Ironwood Drive, Suite A Coeur d’Alene, ID 83814	IIC Lewiston Field Office 1118 “F” Street Lewiston, ID 83501
IIC Idaho Falls Field Office 1820 E. 17th Street, Suite 300 Idaho Falls, ID 83404	IIC Twin Falls Field Office 1411 Falls Avenue East, Suite 915 Twin Falls, ID 83301

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

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

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and reorganized chapters with edits under IDAPA 17, rules of the Industrial Commission:

IDAPA 17

- 17.10.01, *Administrative Rules Under Crime the Victims Compensation Act*
- 17.11.01, *Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and

processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These three chapters contain those rules necessary for the Industrial Commission to properly administer and carry out its responsibilities under the Idaho Workers' Compensation Act (Chapter 1), the Crime Victims Compensation Act (Chapter 10) and the Peace Officer and Detention Officer Temporary Disability Act (Chapter 11).

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kamerron Monroe, Commission Secretary, (208) 334-6017.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin.

Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned or kamerron.monroe@iic.idaho.gov within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Mindy Montgomery
Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

**IDAPA 17
TITLE 10
CHAPTER 01**

17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 72-1004 and 72-1013, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Administrative Rules Under the Crime Victims Compensation Act” IDAPA 17, Title 10, Chapter 01. (6-30-19)T

02. Scope. This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (6-30-19)T

003. ADMINISTRATIVE APPEALS.

Chapter 1, Section 11, Subsection 5, provides for appeals to the Commission from decisions of the Crime Victims Compensation Bureau. (6-30-19)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (6-30-19)T

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The Industrial Commission is open Monday-Friday from 8am - 5pm, Mountain Time, excluding state holidays. The office address is 11321 W. Chinden Boulevard, Boise, ID 83714. Mailing address is P.O. Box 83720, Boise, Idaho 83720-0041. Telephone: 208-334-6000; Fax: 208-334-2321; Website: <https://iic.idaho.gov/>. (6-30-19)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Crime victim’s records are exempt from disclosure except as provided for in Section 72-1007, Idaho Code. (6-30-19)T

007 -- 009. (RESERVED)

010. DEFINITIONS.

01. Commission. Means the Idaho Industrial Commission. (6-30-19)T

02. Crime Victim's Compensation Program. Means the program administered by the Crime Victim's Bureau of the Idaho Industrial Commission under the Crime Victim's Compensation Act. (6-30-19)T

03. Employer. Means the employer at the time of the criminally injurious conduct on which the Application for Compensation is based. (6-30-19)T

04. Medical Services. Words and terms used for determining the allowable payment for medical services under these rules are defined in Subsections 010.04.a. through 010.04.h. (6-30-19)T

a. Allowable payment” means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. (6-30-19)T

b. “Ambulatory Surgery Center (ASC)” means a facility providing surgical services on an outpatient basis only. (6-30-19)T

c. “Hospital” is any acute care facility providing medical or rehabilitation services on an inpatient and

outpatient basis. (6-30-19)T

i. Large Hospital means any hospital with more than one hundred (100) acute care beds. (6-30-19)T

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less. (6-30-19)T

d. “Provider” means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. (6-30-19)T

e. “Medical Service” means medical, surgical, dental, mental health, or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply. (6-30-19)T

f. “Reasonable” means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined in Paragraph 010.04.h. (6-30-19)T

g. “Usual” means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (6-30-19)T

h. “Customary” means a charge that 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. (6-30-19)T

05. Wages. Means the wages at the time of the criminally injurious conduct on which the Application for Compensation is based and shall include non-cash remuneration such as lodging and meals provided by the Employer and gratuities such as tips, which are not paid by the employer, but that are received by the victim in the normal course of his employment. (6-30-19)T

011. APPLICATIONS FOR COMPENSATION.

01. Claim for Benefits. To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Crime Victim's Compensation Bureau of the Commission. Applications for Compensation shall be made using the form approved by the Commission. An Application for Compensation shall be deemed filed when it is received at the Commission’s office in Boise. (6-30-19)T

02. Providing Information. Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information. (6-30-19)T

03. Employment Verification. To verify information concerning a victim’s employment, the Commission may require the victim’s Employer or Employers to complete an Employment Verification form or the Commission may obtain such information from an Employer by telephone. (6-30-19)T

04. Order. After sufficient information has been gathered pursuant to Subsection 011.02 of this rule, the Commission may enter an award granting or partially granting benefits or an order denying benefits. The Commission may also enter orders necessary to further the purposes of the Act. (4-7-11)

05. Finality of Order. An award or order issued by the Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Crime Victim's Compensation Program reconsider the order, or the Crime Victim's Compensation Program may reconsider the matter on its own motion, and the order of the Crime Victim's Compensation Program shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any order is issued by the Crime Victim's Compensation Program, a claimant may file a Request for Hearing before the Commission. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing before the Commission and requests that the Crime Victim's Compensation Program reconsider an order shall be deemed filed when received at the Commission’s office in Boise. (6-30-19)T

06. Recipients of Payments for Medical Services. If, pursuant to any order of the Commission or the Crime Victims Bureau, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. (6-30-19)T

07. Allowable Payments for Medical Services. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (6-30-19)T

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (6-30-19)T

- i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. (6-30-19)T
- ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (6-30-19)T
- iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (6-30-19)T
- iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (6-30-19)T
- v. Paragraph 011.07.e. of this rule, shall not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (6-30-19)T

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

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Anesthesia	00000 - 09999		\$60.05
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$144.48
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$113.52

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	\$69.14
Radiology	70000 - 79999	Radiology	\$87.72
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90749 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$46.44
Medicine - Group Two	90750 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$66.56
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$72.24

(6-30-19)T

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (6-30-19)T

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. (6-30-19)T

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. (6-30-19)T

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (6-30-19)T

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (6-30-19)T
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (6-30-19)T
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (6-30-19)T
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (6-30-19)T

08. Wage Loss Benefits. For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, “wages received at the time of the criminally injurious conduct” shall be the victim’s gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: (6-30-19)T

a. If the Wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time-and-a-half for work in excess of forty (40) hours per week. (6-30-19)T

b. If the Wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked. (6-30-19)T

c. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (6-30-19)T

09. Treating Physician. A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination. (6-30-19)T

10. Overpayment. If the Commission erroneously makes payments, the Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. (6-30-19)T

11. Weekly Compensation Benefits If Victim Employable But Not Employed. If a victim is qualified under Section 72-1019(7)(a), Idaho Code, the following provisions apply: (6-30-19)T

a. If at the time of the injurious conduct the victim was receiving unemployment benefits and as a result of that conduct the victim becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or his weekly benefit amount under the Employment Security Law. (6-30-19)T

b. If at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain and if he was unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin. (6-30-19)T

c. If prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct and it is necessary to employ a person who does not

reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. (6-30-19)T

d. In other circumstances, the Commission may award an amount it deems appropriate. (6-30-19)T

12. Reimbursement for Transportation Expenses. If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement shall be provided only if services are not available in the local area and shall be limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. (6-30-19)T

13. Payment of Bills. Bills for treatment and sexual assault forensic examinations must be submitted within two (2) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. (6-30-19)T

012. HEARING PROCEDURES.

01. Request for Hearing. If a Request for Hearing is filed, an informal hearing shall be held. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. (6-30-19)T

02. Recommendations. If the Commission does not approve the recommendations of a member or Referee, the Commission may: (6-30-19)T

a. Review the record and enter its own findings and decision; (6-30-19)T

b. Conduct another informal hearing and issue a decision based upon the record of both hearings; or (6-30-19)T

c. Assign the matter to another member or Referee to conduct another informal hearing and make recommendations pursuant to Subsection 012.01 above based upon the record of both hearings. (6-30-19)T

03. Notice of Hearing. The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service or certified mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at his last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. (6-30-19)T

04. Transcript of Hearing. All hearings shall be tape-recorded. In addition, the Commission may arrange for a stenographic or machine transcription of any hearing. (6-30-19)T

05. Record. At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, member, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. (6-30-19)T

06. Evidence. At the hearing; after the claimant has presented his evidence, the Commission, or the Commissioner or Referee conducting the hearing shall allow an employee of the Commission to present evidence. After the presentation of evidence by an employee of the Commission, the Commission, or the Commissioner or Referee conducting the hearing may, in its or his discretion, allow any other person to testify. (6-30-19)T

07. Finality of Decision. After a hearing, the decision of the Commission shall be final and conclusive

as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. (6-30-19)T

08. Crime Victim's Compensation Program Review. At the request of the claimant or on its own motion the Crime Victim's Compensation Program may review and amend any final order or award, within three (3) years of the date of issue of such order or award: (6-30-19)T

- a.** If there is a change in circumstances that affects the claimant's entitlement to benefits; (6-30-19)T
- b.** To correct a manifest injustice; (6-30-19)T
- c.** If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or (6-30-19)T
- d.** To comply with the annual review requirements of Section 72-1021, Idaho Code. (6-30-19)T

09. Subpoenas. Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the Claimant shall pay the fees of any witness who is subpoenaed to testify in his behalf. (6-30-19)T

013. -- 999. (RESERVED)

**IDAPA 17
TITLE 11
CHAPTER 01**

**17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER
AND DETENTION OFFICER TEMPORARY DISABILITY ACT**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 72-1104, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act,” IDAPA 17, Title 11, Chapter 01. (6-30-19)T

02. Scope. This chapter includes the Industrial Commission's rules regarding the Peace Officer Temporary Disability Fund. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of the rules. (6-30-19)T

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Industrial Commission under these rules. (6-30-19)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (6-30-19)T

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The Industrial Commission is open Monday-Friday from 8am - 5pm, Mountain Time, excluding state holidays. The office address is 11321 W. Chinden Boulevard, Boise, ID 83714. Mailing address is P.O. Box 83720, Boise, Idaho 83720-0041. Telephone: 208-334-6000; Fax: 208-334-2321; Website: <https://iic.idaho.gov/>. (6-30-19)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Industrial Commission records are exempt from disclosure except as provided for in Section 74-105(10)(a)-(e), Idaho Code. (6-30-19)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth at Section 72-1103, Idaho Code apply to this chapter. (6-30-19)T

011. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. Eligibility. An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (6-30-19)T

a. Temporarily incapacitated and unable to perform employment duties; (6-30-19)T

b. Is otherwise eligible to receive workers' compensation benefits; and (6-30-19)T

c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (6-30-19)T

i. When responding to an emergency; or (6-30-19)T

ii. When in the pursuit of an actual or suspected violator of the law; or (6-30-19)T

iii. The injury was caused by the actions of another person after July 1, 2012. (6-30-19)T

02. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission, available online. (6-30-19)T

03. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (6-30-19)T

04. Disputes. Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (6-30-19)T

013. -- 999. (RESERVED)