TITLE 72
WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 4
BENEFITS

72-401. DEPENDENCY -- WHEN DETERMINED. Dependency shall initially be determined as of the time of the accident causing the injury or of manifestation of an occupational disease for purposes of income benefits therefor, and as of the time of death for purposes of income benefits for death.

[72-401, added I.C., sec. 72-401, as added by 1971, ch. 124, sec. 3, p. 422.]

72-402. WAITING PERIOD. (1) An injured employee shall not be allowed income benefits for the first five (5) days of disability for work; provided, if the injury results in disability for work exceeding two (2) weeks, income benefits shall be allowed from the date of disability and be paid no later than four (4) weeks from date of disability. Provided, further, that the waiting period shall not apply if the injured employee is hospitalized as an in-patient.

(2) The day on which the injury occurred shall be included in computing the waiting period unless the employee has been paid wages for that day.

[72-402, added I.C., sec. 72-402, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 208, sec. 3, p. 1538.]

72-403. PENALTY FOR MALINGERING -- DENIAL OF COMPENSATION. If an injured employee refuses or unreasonably fails to seek physically or mentally suitable work, or refuses or unreasonably fails or neglects to work after such suitable work is offered to, procured by or secured for the employee, the injured employee shall not be entitled to temporary disability benefits during the period of such refusal or failure.

[72-403, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 4, p. 804.]

72-404. SETTLEMENT AGREEMENTS -- LUMP SUM PAYMENTS. (1) Pursuant to the provisions of this section, parties may compromise and settle claims by way of agreements for lump sum payments, future payments, accrued income benefits, future income benefits, medical cost reimbursements, and other benefits payable under Idaho's worker's compensation laws.

(2) Except as provided in subsection (3) of this section, commission approval is not required for parties to enter into enforceable compromise or settlement agreements. However, either party may request a review and approval of a proposed compromise or settlement agreement by the commission.

(3) In any case where one (1) or both parties are not represented by an attorney or in any case where a party is a minor child or legally incompetent person, the commission shall review compromise or settlement agreements. The commission shall approve such an agreement if it determines that approval is in the best interests of the parties. If the commission declines to approve a compromise or settlement agreement, it shall issue a written decision, including factual findings, conclusions of law, and an order declin-

ing to approve the agreement. Such decision and order shall be immediately appealable to the Idaho supreme court on grounds of abuse of discretion.

(4) If the commission requires a hearing as part of the settlement review and approval process pursuant to subsection (3) of this section, the commission shall, prior to such hearing, provide each party with written notice of the commission's specific issues to be addressed at the settlement review hearing.

(5) All compromise and settlement agreements shall be filed with the commission for recordkeeping purposes and for purposes of assessment under section 72-327, Idaho Code. A settlement agreement shall be effective on the date it is filed with the commission and shall for all purposes constitute an adjudication of the claims resolved in the settlement agreement. All agreements filed with the commission pursuant to this section shall include, at a minimum, a detailed ledger of all benefits paid or disputed and all terms agreed upon by the parties. A copy of the settlement agreement executed by the parties shall be filed with the commission. When the worker is represented by an attorney, the worker's attorney shall file an attorney charging lien with the commission. The filing of an attorney charging lien shall be deemed to satisfy the requirements of section 72-803, Idaho Code, with respect to approval for claims of attorney's fees, provided that the fees assessed comply with the requirements of Idaho Code and the rules of the commission.

(6) The commission shall, within seven (7) days after the filing of a settlement agreement, issue a notice of dismissal with prejudice, excepting future claims that may include medical or other benefits as agreed upon by the parties.

[72-404, added 2022, ch. 174, sec. 2, p. 569.]

72-405. TRUSTEE IN CASE OF LUMP SUM PAYMENT. Whenever for any reason the commission deems it expedient, any lump sum to be paid as provided in section 72-404, shall be paid to some suitable person or corporation appointed as trustee to administer or apply the same for the benefit of the person or persons entitled thereto in the manner provided by the commission. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.

[72-405, added I.C., sec. 72-405, as added by 1971, ch. 124, sec. 3, p. 422.]

72-406. DEDUCTIONS FOR PREEXISTING INJURIES AND INFIRMITIES. (1) In cases of permanent disability less than total, if the degree or duration of disability resulting from an industrial injury or occupational disease is increased or prolonged because of a preexisting physical impairment, the employer shall be liable only for the additional disability from the industrial injury or occupational disease.

(2) Any income benefits previously paid an injured workman for permanent disability to any member or part of his body shall be deducted from the amount of income benefits provided for the permanent disability to the same member or part of his body caused by a change in his physical condition or by a subsequent injury or occupational disease.

[72-406, added I.C., sec. 72-406, as added by 1971, ch. 124, sec. 3, p. 422.]

72-407. CERTAIN INJURIES DEEMED TOTAL AND PERMANENT. In case of the following injuries, if the employer disputes that the claimant is totally and permanently disabled, the burden of proof shall be on the employer to prove by clear and convincing evidence that the claimant is not permanently and totally disabled.

(1) The total and permanent loss of sight in both eyes.

(2) The loss of both feet at or above the ankle.

(3) The loss of both hands at or above the wrist.

(4) The loss of one (1) hand and one (1) foot.

(5) An injury to the spine resulting in permanent and complete paralysis of both legs or arms or of one (1) leg and one (1) arm.

(6) An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive.

[72-407, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 5, p. 805.]

72-408. INCOME BENEFITS FOR TOTAL AND PARTIAL DISABILITY. Income benefits for total and partial disability during the period of recovery, and thereafter in cases of total and permanent disability, shall be paid to the disabled employee subject to deduction on account of waiting period and subject to the maximum and minimum limits set forth in section 72-409, Idaho Code, as follows:

(1) For a period not to exceed a period of fifty-two (52) weeks, an amount equal to sixty-seven per cent (67%) of his average weekly wage and thereafter an amount equal to sixty-seven per cent (67%) of the currently applicable average weekly state wage.

(2) Partial disability. For partial disability during the period of recovery an amount equal to sixty-seven per cent (67%) of his decrease in wage-earning capacity, but in no event to exceed the income benefits payable for total disability.

[72-408, added I.C., sec. 72-408, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 208, sec. 4, p. 1538; am. 1982, ch. 231, sec. 2, p. 611; am. 1991, ch. 207, sec. 1, p. 488.]

72-409. MAXIMUM AND MINIMUM INCOME BENEFITS FOR TOTAL DISABILITY. (1) The weekly income benefits provided for in section 72-408(1), Idaho Code, shall be subject to a maximum of ninety percent (90%) and a minimum of forty-five percent (45%) of the currently applicable average weekly state wage, provided, however, that during the first fifty-two (52) weeks of total disability income benefits shall not in any case exceed ninety percent (90%) of the employee's average weekly wage, but if during the first fifty-two (52) weeks ninety percent (90%) of the employee's average weekly wage is less than fifteen percent (15%) of the currently applicable average weekly state wage, then the employee shall receive no less than fifteen percent (15%) of the currently applicable average weekly state wage, except as benefits may be increased by reason of increases in the average weekly state wage as computed in subsection (2) hereof, nor shall income benefits paid subsequent to the first fifty-two (52) weeks of total disability exceed income benefits paid during the first fifty-two (52) weeks of total disability except as the same may be increased by reason of increases in the average weekly state wage, provided, however, that where an employee's benefit rate for the first

fifty-two (52) week period was less than the minimums prescribed above, his benefit rate thereafter shall be not less than forty-five percent (45%) of the currently applicable average weekly state wage.

(2) For the purpose of this law the average weekly wage in the state shall be determined by the commission as follows: on or before June 1 of each year, the total wages reported on contribution reports to the department of employment for the preceding calendar year shall be divided by the average monthly number of insured workers determined by dividing the total insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly state wage thus determined rounded to the nearest dollar. The average weekly state wage as so determined shall be applicable for the calendar year commencing January 1 following the June 1 determination.

[72-409, added I.C., sec. 72-409, as added by 1971, ch. 124, sec. 3, p. 422; am. 1981, ch. 261, sec. 3, p. 554; am. 1991, ch. 207, sec. 2, p. 489; am. 1998, ch. 210, sec. 1, p. 738.]

72-410. DEPENDENTS. The following persons, and they only, shall be deemed dependents and entitled to income benefits under the provisions of this act:

(1) A child:

(a) Under eighteen (18) years of age, or incapable of self-support and unmarried, whether or not actually dependent upon the deceased employee;

(b) Under twenty-three (23) years of age if a full-time student and as provided for in section 72-412(3), Idaho Code.

(2) The widow or widower only if living with the deceased or living apart from the deceased for justifiable cause, or actually dependent, wholly or partially, upon the deceased.

(3) A parent or grandparent only if actually dependent, wholly or partially, upon the deceased.

(4) A grandchild, brother or sister only if under eighteen (18) years of age, or incapable of self-support, and actually dependent wholly upon the deceased.

[72-410, as added by 1971, ch. 124, sec. 3, p. 422; am. 1975, ch. 13, sec. 2, p. 18; am. 1989, ch. 194, sec. 1, p. 489; am. 2006, ch. 186, sec. 1, p. 586.]

72-411. TIME OF DEPENDENCY. The relation of dependency must exist at the time of the accident causing the injury or manifestation of occupational disease.

[72-411, added I.C., sec. 72-411, as added by 1971, ch. 124, sec. 3, p. 422.]

72-412. PERIODS OF INCOME BENEFITS FOR DEATH. The income benefits for death herein provided for shall be payable during the following periods:

(1) To a widow or widower, until death or remarriage, but in no case to exceed five hundred (500) weeks.

(2) Unless as otherwise provided in subsection (3) of this section, to or for a child, until eighteen (18) years of age, and if incapable of self-support after age eighteen (18) years for an additional period not to ex-

ceed five hundred (500) weeks, deducting the period benefits which were paid prior to eighteen (18) years of age. Provided, income benefits payable to or for any child shall cease when such child marries.

(3) To or for a child after age eighteen (18) years who is enrolled as a full-time student in any accredited educational institution, or accredited vocational training program, until such child ceases to be so enrolled or reaches the age of twenty-three (23) years, whichever occurs first. Provided, in the event the child reaches the age of twenty-three (23) years during the quarter or semester in which the child is enrolled, benefits shall continue until the completion of the quarter or semester in which the child reached the age of twenty-three (23) years. This extension of benefits to the age of twenty-three (23) years shall not apply if the accident causing the injury or manifestation of the occupational disease occurred prior to December 31, 2006.

(4) To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed five hundred (500) weeks.

(5) To or for a grandchild, brother or sister, during dependency as hereinbefore defined, but in no case to exceed five hundred (500) weeks.

(6) In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in this section.

[72-412, added 1971, ch. 124, sec. 3, p. 422; am. 1981, ch. 261, sec. 4, p. 555; am. 2002, ch. 129, sec. 1, p. 359; am. 2006, ch. 186, sec. 2, p. 587.]

72-413. INCOME BENEFITS FOR DEATH. If death results from the accident or occupational disease within four (4) years from the date of the accident, or manifestation of the occupational disease, the employer shall pay to or for the benefit of the following particular classes of dependents' weekly income benefits equal to the following percentages of the average weekly state wage as defined in section 72-409, Idaho Code. The benefits payable hereunder shall be subject to annual adjustment as provided in section 72-409(2), Idaho Code. The annual adjustment provided herein shall not apply to benefits for an injury or occupational disease resulting in death if the accident causing the injury or the manifestation of the occupational disease occurred prior to July 1, 1991.

(1) To a dependent widow or widower, if there be no dependent children, forty-five per cent (45%).

(2) To a dependent widow or widower, if there be dependent children, an additional five per cent (5%) of the average weekly state wage for each dependent child to and including a total of three (3). Such compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children and the commission may from time to time apportion such compensation between them in such a way as it deems best.

(3) If there be no dependent widow or widower, but a dependent child or children, thirty per cent (30%) of the average weekly state wage for one (1) child and ten per cent (10%) for each additional child to and including a total of three (3), to a maximum not to exceed sixty per cent (60%) of the average weekly state wage, to be divided equally among such children.

(4) To the parents, if one (1) be wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent (25%) of the average weekly state wage; if both are wholly dependent, twenty per cent (20%) of the average weekly state

wage to each; if one (1) be or both are partly dependent, a proportionate amount in the discretion of the commission.

The above percentages shall be paid if there be no dependent widow, widower or child. If there be a widow, widower or child, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower and children, will not exceed a total of sixty per cent (60%) of the average state weekly wage.

(5) To the brothers, sisters, grandparents and grandchildren, if one (1) be wholly dependent upon the deceased employee at the time of his death, twenty per cent (20%) of the average state weekly wage to such dependents; if more than one be wholly dependent, thirty per cent (30%) of the average state weekly wage, divided among such dependents, share and share alike. If there be no one (1) of them wholly dependent, but one (1) or more partially dependent, ten per cent (10%) of the average state weekly wage divided among such dependents, share and share alike.

The above percentages shall be paid if there be no dependent widow, widower, child or parent. If there be a dependent widow, widower, child or parent, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, children and dependent parents, will not exceed a total of sixty per cent (60%) of the average weekly state wage.

Payments made for and on behalf of a dependent child or children shall be made to such child's or children's natural or adoptive surviving parent for the use and benefit of the child or children, if such child or children reside with such parent, notwithstanding the remarriage of such parent; provided, however, if the care and the custody of such child or children has been awarded by a court of competent jurisdiction of this state or any other state to a person or persons other than the child's or children's natural or adoptive parent, then such payments shall be made to that person or those persons so awarded care and custody for the use and benefit of the child or children. Whenever the commission deems it necessary, it may direct any payments made hereunder to be made under such terms and conditions as it deems necessary.

[72-413, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 30, sec. 1, p. 981; am. 1991, ch. 207, sec. 3, p. 490; am. 1997, ch. 274, sec. 6, p. 805.]

72-413A. LUMP SUM PAYMENT UPON REMARRIAGE. In the event of remarriage of the widow or widower prior to the expiration of five hundred (500) weeks as provided in section]72-412] 42-412, Idaho Code, a lump sum shall be paid to the widow or widower in an amount equal to the lesser of one hundred (100) weeks or the total of income benefits for the remainder of the five-hundred (500) week period computed on the basis of a weekly rate of forty-five per cent (45%) of the average weekly state wage in effect at the time of remarriage. The provisions of this section shall not apply to benefits for an injury or occupational disease resulting in death where the accident causing the injury or the manifestation of the occupational disease occurred prior to July 1, 1991.

[72-413A, added 1991, ch. 207, sec. 4, p. 491.]

72-414. APPORTIONMENT BENEFITS BETWEEN CLASSES. In case there are two (2) or more classes of persons entitled to compensation under section 72-413, and the apportionment of such compensation as above provided, would

result in injustice, the commission may, in its discretion, modify the apportionment to meet the requirements of the case.

[72-414, added I.C., sec. 72-414, as added by 1971, ch. 124, sec. 3, p. 422.]

72-415. CHANGE IN DEPENDENTS. Upon the cessation of the income benefits for death to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

[72-415, added I.C., sec. 72-415, as added by 1971, ch. 124, sec. 3, p. 422.]

72-416. MAXIMUM AND MINIMUM INCOME BENEFITS FOR DEATH. (1) For purposes of income benefits for death, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in section 72-409, Idaho Code.

(2) In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefits that were or would have been payable for total disability to the deceased. Provided, however, that where an employee's total disability benefits were or would have been less than forty-five per cent (45%) of the currently applicable average weekly state wage, death benefits shall be computed subject to the maximum of that to which a claimant would have been eligible after the first fifty-two (52) weeks of total disability.

[72-416, added I.C., sec. 72-416, as added by 1971, ch. 124, sec. 3, p. 422; am. 1981, ch. 261, sec. 5, p. 555.]

72-417. MAXIMUM TOTAL PAYMENT. The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed sixty per cent (60%) of the average weekly wage of the deceased as calculated under section 72-419, subject to the maximum limits in section 72-416. The classes of beneficiaries specified in paragraphs (1), (2) and (3) of section 72-413, shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of said paragraphs should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided in section 72-413, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. The dependents specified in paragraph (4) of section 72-410, shall be considered to be in one (1) class and those specified in paragraph (5) of said section, in another class.

[72-417, added I.C., sec. 72-417, as added by 1971, ch. 124, sec. 3, p. 422.]

72-418. COMPUTATION OF WEEKS AND DAYS. In computing periods of disability and of compensation a week shall be computed as seven (7) days and a day as one-seventh (1/7) of a week, without regard to Sundays, holidays and working days.

[72-418, added I.C., sec. 72-418, as added by 1971, ch. 124, sec. 3, p. 422.]

72-419. DETERMINATION OF AVERAGE WEEKLY WAGE. Except as otherwise provided in this law, the average weekly wage of the employee at the time of the accident causing the injury or of manifestation of the occupational disease shall be taken as the basis upon which to compute compensation and shall be determined as follows:

(1) If at such time the wages are fixed by the week, the amount so fixed shall be the average weekly wage.

(2) If at such time the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52).

(3) If at such time the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52).

(4) (a) If at such time the wages are fixed by the day, hour or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) his wages (not including overtime or premium pay) earned in the employ of the employer in the first, second, third or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the time of accident or manifestation of the disease.

(b) If the employee has been in the employ of the employer less than twelve (12) calendar weeks immediately preceding the accident or manifestation of the disease, his average weekly wage shall be computed under the foregoing paragraph, taking the wages (not including overtime or premium pay) for such purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding such time and had worked, when work was available to other employees in a similar occupation.

(5) If at such time the hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where such services are rendered by paid employees.

(6) In seasonal occupations that do not customarily operate throughout the entire year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the time of the accident or manifestation of the disease.

(7) In the case of a volunteer emergency responder, the income benefits in the first fifty-two (52) weeks shall be based on the average weekly wage in his regular employment or sixty-seven percent (67%) of the current average weekly state wage, as determined pursuant to section 72-409(2), Idaho Code, whichever is greater.

(8) If the employee was a minor, apprentice or trainee at the time of the accident or manifestation of the disease, and it is established that under normal conditions his wages should be expected to increase during the period of disability that fact may be considered in computing his average weekly wage.

(9) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of such employment prior to the injury, the employee's wages from all such employers shall be considered as if earned from the employer liable for compensation.

(10) When circumstances are such that the actual rate of pay cannot be readily ascertained, the wage shall be deemed to be the contractual, customary or usual wage in the particular employment, industry or community for the same or similar service.

(11) In the case of public employees covered under section 72-205(6), Idaho Code, the income benefits shall be based on the greater of the average weekly wage of the employee's civilian employment and pay computed for one (1) weekend drill in a month, or full-time active duty pay fixed by the month as provided in section 46-605, Idaho Code.

[72-419, as added by 1971, ch. 124, sec. 3, p. 422; am. 1981, ch. 261, sec. 6, p. 555; am. 1997, ch. 274, sec. 7, p. 806; am. 1999, ch. 118, sec. 3, p. 353; am. 2008, ch. 369, sec. 3, p. 1014.]

72-420. COMPENSATION TO STATE WHEN DEPENDENCY NOT CLAIMED OR PROVED. In case no claim for compensation is made by a dependent of a deceased employee and filed with the commission within one (1) year after the death, or in case a claim is made and filed within such year and no dependency proven, the employer shall pay into the state treasury the sum of ten thousand dollars ($10,000) to be deposited in the industrial special indemnity account.

[72-420, added 1981, ch. 261, sec. 7, p. 557; am. 1986, ch. 93, sec. 4, p. 272.]

72-421. REFUND OF PAYMENT TO STATE AFTER DELAYED PROOF OF CLAIM BY MINOR OR INCOMPETENT DEPENDENT. If, after an employer has paid the sum provided for in section 72-420, Idaho Code, into the state treasury a claim is made and dependency proven by a person who during the one (1) year after the death in which a claim may be made was either a minor or mentally incompetent and who during the said year had no person or representative legally qualified under the provisions of the workmen's compensation law to make a claim in his behalf, such sum shall be repaid to the employer on the order of the industrial commission; provided, that nothing in this act shall be construed as extending or increasing the time during which a claim for compensation by a dependent may be made.

[72-421, added 1982, ch. 231, sec. 3, p. 612.]

72-422. PERMANENT IMPAIRMENT. "Permanent impairment" is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved and which abnormality or loss, medically, is considered stable or nonprogressive at the time of evaluation. Permanent impairment is a basic consideration in the evaluation of permanent disability, and is a contributing factor to, but not necessarily an indication of, the entire extent of permanent disability.

[72-422, added I.C., sec. 72-422, as added by 1971, ch. 124, sec. 3, p. 422.]

72-423. PERMANENT DISABILITY. "Permanent disability" or "under a permanent disability" results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected.

[72-423, added I.C., sec. 72-423, as added by 1971, ch. 124, sec. 3, p. 422.]

72-424. PERMANENT IMPAIRMENT EVALUATION. "Evaluation (rating) of permanent impairment" is a medical appraisal of the nature and extent of the injury or disease as it affects an injured employee's personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, elevation, traveling, and nonspecialized activities of bodily members.

[72-424, added I.C., sec. 72-424, as added by 1971, ch. 124, sec. 3, p. 422.]

72-425. PERMANENT DISABILITY EVALUATION. "Evaluation (rating) of permanent disability" is an appraisal of the injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of permanent impairment and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

[72-425, added I.C., sec. 72-425, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 132, sec. 2, p. 1329; am. 1982, ch. 231, sec. 4, p. 612.]

72-426. THE WHOLE MAN -- A PERIOD OF FIVE HUNDRED WEEKS. The "whole man" for purposes of computing disability evaluation of scheduled or unscheduled permanent injury (bodily loss or losses or loss of use) for conversion to scheduled income benefits, shall be a deemed period of disability of five hundred (500) weeks.

[72-426, added I.C., sec. 72-426, as added by 1971, ch. 124, sec. 3, p. 422.]

72-427. PERMANENT IMPAIRMENT EVALUATION NOT EXCLUSIVE. The "whole man" income benefit evaluation for purposes of computing scheduled and unscheduled permanent impairment shall not be deemed to be exclusive for the purposes of fixing the evaluation of permanent disability.

[72-427, added I.C., sec. 72-427, as added by 1971, ch. 124, sec. 3, p. 422.]

72-428. SCHEDULED INCOME BENEFITS FOR LOSS OR LOSSES OF USE OF BODILY MEMBERS. An employee who suffers a permanent disability less than total and permanent shall, in addition to the income benefits payable during the period of recovery, be paid income benefits for such permanent disability in an amount equal to fifty-five percent (55%) of the average weekly state wage stated against the following scheduled permanent impairments respectively:

(1) Amputations of Upper Extremities	Weeks
Forequarter amputation	350
Disarticulation at shoulder joint	300
Amputation of arm above deltoid insertion	300
Amputation of arm between deltoid insertion and elbow joint	285
Disarticulation at elbow joint	285
Amputation of forearm below elbow joint	

proximal to insertion of biceps tendon	285
Amputation of forearm below elbow joint distal to insertion of biceps tendon	270
Disarticulation at wrist joint	270
Midcarpal or mid-metacarpal amputation of hand	270
Amputation of all fingers except thumb at metacarpophalangeal joints	160
Amputation of thumb	
At metacarpophalangeal joint or with resection of carpometacarpal bone	110
At interphalangeal joint	80
Amputation of index finger	
At metacarpophalangeal joint or with resection of metacarpal bone	70
At proximal interphalangeal joint	55
At distal interphalangeal joint	30
Amputation of middle finger	
At metacarpophalangeal joint or with resection of metacarpal bone	55
At proximal interphalangeal joint	45
At distal interphalangeal joint	25
Amputation of ring finger	
At metacarpophalangeal joint or with resection of metacarpal bone	25
At proximal interphalangeal joint	20
At distal interphalangeal joint	12
Amputation of little finger	
At metacarpophalangeal joint or with resection of metacarpal bone	15
At proximal interphalangeal joint	10
At distal interphalangeal joint	5
(2) Amputations of Lower Extremities	Weeks
Hemipelvectomy	250
Disarticulation at hip joint	200
Amputation above knee joint with short thigh stump (3" or less below tuberosity of ischium)	200
Amputation above knee joint with functional stump	180
Disarticulation at knee joint	180
Gritti-Stokes amputation	180
Amputation below knee joint with short stump (3" or less below intercondylar notch)	180
Amputation below knee joint with functional stump	140
Amputation at ankle (Syme)	140
Partial amputation of foot (Chopart's)	105
Mid-metatarsal amputation	70
Amputation of all toes	
At metatarsophalangeal joints	42

Amputation of great toe	
With resection of metatarsal bone	42
At metatarsophalangeal joint	25
At interphalangeal joint	25
Amputation of lesser toe (2nd-5th)	
With resection of metatarsal bone	7
At metatarsophalangeal joint	4
At proximal interphalangeal joint	3
At distal interphalangeal joint	1

(3) Loss of Vision and Hearing

Total loss of vision of one eye	150
Loss of one eye by enucleation	175
Total loss of binaural hearing	175

(4) Total loss of use. Income benefits payable for permanent disability attributable to permanent total loss of use or comparable total loss of use of a member shall not be less than as for the loss of the member.

(5) Partial loss or partial loss of use. Income benefits payable for permanent partial disability attributable to permanent partial loss or loss of use, of a member shall be not less than for a period as the permanent impairment attributable to the partial loss or loss of use of the member bears to total loss of the member.

(6) Delay in rating. Following the period of recovery, a permanently disabled employee who has been afforded vocational retraining under a rehabilitation program shall be rated for permanent impairment only until completion of the vocational retraining program at which time he shall be rated for permanent disability, deducting from any monetary award therefor amounts previously awarded for permanent impairment only.

[72-428, added 1971, ch. 124, sec. 3, p. 456; am. 1974, ch. 132, sec. 3, p. 1329; am. 1978, ch. 264, sec. 11, p. 580.]

72-429. UNSCHEDULED PERMANENT DISABILITIES. In all other cases of permanent disabilities less than total not included in the foregoing schedule the amount of income benefits shall be not less than the evaluation in relation to the percentages of loss of the members, or of loss of the whole man, stated against the scheduled permanent impairments, as the disabilities bear to those produced by the permanent impairments named in the schedule. Weekly income benefits paid pursuant to this section shall likewise be paid at fifty-five percent (55%) of the average weekly state wage for the year of the injury as provided in section 72-428, Idaho Code.

[72-429, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 8, p. 808.]

72-430. PERMANENT DISABILITY -- DETERMINATION OF -- PERCENTAGES -- SCHEDULE. (1) Matters to be considered. In determining percentages of permanent disabilities, account shall be taken of the nature of the physical disablement, the disfigurement if of a kind likely to limit the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his age at the time of accident causing the injury, or manifestation of the occupational disease, consideration being given to the diminished ability of the afflicted employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee,

and other factors as the commission may deem relevant, provided that when a scheduled or unscheduled income benefit is paid or payable for the permanent partial or total loss or loss of use of a member or organ of the body no additional benefit shall be payable for disfigurement.

(2) Preparation of schedules -- Availability for inspection -- Prima facie evidence. The commission may prepare, adopt and from time to time amend a schedule for the determination of the percentages of unscheduled permanent injuries less than total, including, but not limited to, a schedule for partial loss of binaural hearing and for loss of teeth, and methods for determination thereof. Such schedule shall be available for public inspection, and without formal introduction in evidence shall be prima facie evidence of the percentages of permanent disabilities to be attributed to the injuries or diseases covered by such schedule.

[72-430, added 1971, ch. 124, sec. 3, p. 422; am. 1982, ch. 231, sec. 5, p. 612; am. 2010, ch. 235, sec. 70, p. 604.]

72-431. INHERITABILITY OF SCHEDULED OR UNSCHEDULED INCOME BENEFITS. When an employee who has sustained disability compensable as a scheduled or unscheduled permanent disability less than total, and who has filed a valid claim in his lifetime, dies from causes other than the injury or occupational disease before the expiration of the compensable period specified, the income benefits specified and unpaid at the employee's death, whether or not accrued or due at the time of his death, shall be paid, under an award made before or after such death, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this subsection and in the order named:

(1) To the dependent widow or widower, if there is no child under the age of eighteen (18) or child incapable of self-support; or

(2) If there are both such a widow or widower and such a child or children, one-half (1/2) to such widow or widower and the other one-half (1/2) to such child or children; or

(3) If there is no such widow or widower but such a child or children, then to such child or children; or

(4) If there is no survivor in the above classes, then to the personal representative of the decedent.

[72-431, added I.C., sec. 72-431, as added by 1971, ch. 124, sec. 3, p. 422.]

72-432. MEDICAL SERVICES, APPLIANCES AND SUPPLIES -- REPORTS. (1) Subject to the provisions of section 72-706, Idaho Code, the employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital services, medicines, crutches and apparatus, as may be reasonably required by the employee's physician or needed immediately after an injury or manifestation of an occupational disease, and for a reasonable time thereafter. If the employer fails to provide the same, the injured employee may do so at the expense of the employer.

(2) The employer shall also furnish necessary replacements or repairs of appliances and prostheses, unless the need therefor is due to lack of proper care by the employee. If the appliance or prosthesis is damaged or destroyed in an industrial accident, the employer, for whom the employee was working at the time of accident, will be liable for replacement or repair,

but not for any subsequent replacement or repair not directly resulting from the accident.

(3) In addition to the income benefits otherwise payable, the employee who is entitled to income benefits shall be paid an additional sum in an amount as may be determined by the commission as by it deemed necessary, as a medical service, when the constant service of an attendant is necessary by reason of total blindness of the employee or the loss of both hands or both feet or the loss of use thereof, or by reason of being paralyzed and unable to walk, or by reason of other disability resulting from the injury or disease actually rendering him so helpless as to require constant attendance. The commission shall have authority to determine the necessity, character and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital or rehabilitation facility when in its judgment such change is desirable or necessary.

(4) (a) The employee upon reasonable grounds, may petition the commission for a change of physician to be provided by the employer; however, the employee must give written notice to the employer or surety of the employee's request for a change of physicians to afford the employer the opportunity to fulfill its obligations under this section. If proper notice is not given, the employer shall not be obligated to pay for the services obtained. Nothing in this section shall limit the attending physician from arranging for consultation, referral or specialized care without permission of the employer. Upon receiving such written notice, the employer shall render its written decision on the claimant's request within fourteen (14) days. If any dispute arises over the issue of a request for change of physician, the industrial commission shall conduct an expedited hearing to determine whether or not the request for change of physician should be granted, and shall render a decision within fourteen (14) days after the filing of the response by the employer.

(b) The industrial commission shall, no later than December 31, 1997, promulgate a rule for the expeditious handling of a petition for change of physician pursuant to this section. Nothing herein shall prevent the commission from making periodic amendments, as may become necessary, to any rule for a petition for change of physician.

(5) Any employee who seeks medical care in a manner not provided for in this section, or as ordered by the industrial commission pursuant to this section, shall not be entitled to reimbursement for costs of such care.

(6) No provider shall engage in balance billing as defined in section 72-102, Idaho Code.

(7) An employee shall not be responsible for charges of physicians, hospitals or other providers of medical services to whom he has been referred for treatment of his injury or occupational disease by an employer designated physician or by the commission, except for charges for personal items or extended services which the employee has requested for his convenience and which are not required for treatment of his injury or occupational disease.

(8) The employer or surety shall not be subject to tort liability to any health care provider for complying with the provisions of this law.

(9) Nothing in this chapter shall be construed to require a workman who in good faith relies on Christian Science treatment by a duly accredited Christian Science practitioner to undergo any medical or surgical treatment, providing that neither he nor his dependents shall be entitled to

income benefits of any kind beyond those reasonably expected to have been paid had he undergone medical or surgical treatment, and the employer or insurance carrier may pay for such spiritual treatment.

(10) The commission shall promulgate rules requiring physicians and other practitioners providing treatment to make regular reports to the commission containing such information as may be required by the commission. The commission shall promulgate such rules with the counsel, advice, cooperation and expertise of representatives of industry, labor, sureties and the legal and medical professions as well as institutions, hospitals and clinics having physical rehabilitation facilities.

(11) All medical information relevant to or bearing upon a particular injury or occupational disease shall be provided to the employer, surety, manager of the industrial special indemnity fund, or their attorneys or authorized representatives, the claimant, the claimant's attorneys or authorized representatives, or the commission without liability on the part of the physician, hospital or other provider of medical services and information developed in connection with treatment or examination for an injury or disease for which compensation is sought shall not be privileged communication. When a physician or hospital willfully fails to make a report required under this section, after written notice by the commission that such report is due, the commission may order forfeiture of all or part of payments due for services rendered in connection with the particular case. An attorney representing the employer, surety, claimant or industrial special indemnity fund shall have the right to confer with any health care provider without the presence of the opposing attorney, representative or party, except for a health care provider who is retained only as an expert witness.

(12) Physicians or others providing services under this section shall assist in the rehabilitation program provided in section 72-501A, Idaho Code. They shall cooperate with specialists from the commission's rehabilitation staff and with employer rehabilitation personnel in furthering the physical or vocational rehabilitation of the employee. The extension of total temporary disability benefits during retraining as authorized by section 72-450, Idaho Code, shall be the responsibility of the commission, however, the physician shall inform the commission as soon as it is medically apparent that the employee may be unable to return to the job in which he sustained injury or occupational disease following treatment and maximum recovery.

(13) An injured employee shall be reimbursed for his expenses of necessary travel in obtaining medical care under this section. Reimbursement for transportation expenses, if the employee utilizes a private vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees; provided however, that the employee 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.

(14) An employee who leaves the locality where employed at the time of the industrial accident, or manifestation of an occupational disease, or the locality in which the employee is currently receiving medical treatment for the injury, shall give timely notice to the employer and surety of the employee's leaving the locality. The employer or surety may require the claimant to report to the treating physician for examination prior to leaving the locality, if practical. If an examination by the treating physician is not practical prior to leaving the locality, the employer or surety may

assist in arranging an examination by an appropriate physician in the new locality. After receiving notice of relocation, the employer or surety shall have the same responsibility to furnish care as set forth in subsection (1) of this section.

[72-432, as added by 1971, ch. 124, sec. 3, p. 422; am. 1971, ch. 297, sec. 1, p. 1113; am. 1974, ch. 132, sec. 4, p. 1329; am. 1978, ch. 264, sec. 12, p. 583; am. 1997, ch. 274, sec. 9, p. 808; am. 2005, ch. 161, sec. 1, p. 493; am. 2006, ch. 206, sec. 2, p. 631.]

72-433. SUBMISSION OF INJURED EMPLOYEE TO MEDICAL EXAMINATION OR PHYSICAL REHABILITATION. (1) After an injury or contraction of an occupational disease and during the period of disability the employee, if requested by the employer or ordered by the commission, shall submit himself for examination at reasonable times and places to a duly qualified physician or surgeon. The employee shall be reimbursed for his expenses of necessary travel and subsistence in submitting himself for any such examination and for loss of wages, if any. For purposes of this section, the reimbursement for loss of wages shall be at the employee's then current rate of pay if the employee is then working; otherwise, such reimbursement shall be at the total temporary disability rate. Reimbursement for travel expenses, if the employee utilizes a private vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees; provided, however, that the employee shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip distance of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel.

(2) The employee shall have the right to have a physician or surgeon designated and paid by himself present at an examination by a physician or surgeon so designated by the employer. Such right, however, shall not be construed to deny the employer's designated physician or surgeon the right to visit the injured employee during reasonable times and under all reasonable conditions during disability. The employee and the examining physician shall have the right to have an audio recording of any examination, but may have a video recording only if the examining physician and the employee consent.

(3) At any time after injury, if an injured employee be sent to a facility approved by the commission for physical or vocational rehabilitation, the employee shall be furnished by the employer reasonable travel accommodations to and from such facility and if the injured employee is an outpatient in a physical rehabilitation facility, he shall be paid daily subsistence as the commission may authorize to cover reasonable expenses of board, lodging and transportation. Reimbursement for transportation expense, if the employee utilizes a private vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees; provided however, that the employee shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip distance of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel.

[72-433, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 132, sec. 5, p. 1329; am. 1990, ch. 110, sec. 1, p. 221; am. 1997, ch. 274, sec. 10, p. 811.]

72-434. EFFECT OF REFUSING MEDICAL EXAMINATION -- DISCONTINUANCE OF COMPENSATION. If an injured employee unreasonably fails to submit to or in any way obstructs an examination by a physician or surgeon designated by the commission or the employer, the injured employee's right to take or prosecute any proceedings under this law shall be suspended until such failure or obstruction ceases, and no compensation shall be payable for the period during which such failure or obstruction continues.

[72-434, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 11, p. 811.]

72-435. INJURIOUS PRACTICES -- SUSPENSION OR REDUCTION OF COMPENSATION. If an injured employee persists in unsanitary or unreasonable practices which tend to imperil or retard his recovery the commission may order the compensation of such employee to be suspended or reduced.

[72-435, added I.C., sec. 72-435, as added by 1971, ch. 124, sec. 3, p. 422.]

72-436. BURIAL EXPENSES. If death results from the injury within four (4) years, the employer shall pay to the person entitled to compensation, or if there is none then to the personal representative of the deceased employee, a sum not to exceed ten thousand dollars ($10,000) for funeral, burial or cremation, and transportation expenses.

[72-436, added 1971, ch. 124, sec. 3, p. 422; am. 2006, ch. 206, sec. 4, p. 634; am. 2021, ch. 82, sec. 2, p. 271; am. 2025, ch. 69, sec. 1, p. 329.]

72-437. OCCUPATIONAL DISEASES -- RIGHT TO COMPENSATION. When an employee of an employer suffers an occupational disease and is thereby disabled from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease, or dies as a result of such disease, and the disease was due to the nature of an occupation or process in which he was employed within the period previous to his disablement as hereinafter limited, the employee, or, in case of his death, his dependents shall be entitled to compensation.

[72-437, added I.C., sec. 72-437, as added by 1971, ch. 124, sec. 3, p. 422.]

72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or enclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benzol (dinitro-benzol, anilin and others) or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to roentgen ray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(12) Cardiovascular or pulmonary or respiratory diseases of a firefighter, employed by or volunteering for a municipality, village or fire district as a regular member of a lawfully established fire department, caused by overexertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment.

(13) Acquired immunodeficiency syndrome (AIDS), AIDS-related complexes (ARC), other manifestations of human immunodeficiency virus (HIV) infections, infectious hepatitis viruses and tuberculosis in any occupation involving exposure to human blood or body fluids.

(14) Firefighter occupational diseases:

(a) As used in this subsection, "firefighter" means an employee whose primary duty is that of extinguishing or investigating fires as part of a fire district, fire department or fire brigade.

(b) If a firefighter is diagnosed with one (1) or more of the following diseases after the period of employment indicated in subparagraphs (i) through (xi) of this paragraph, and the disease was not revealed during an initial employment medical screening examination that was performed according to such standards and conditions as may be established at the sole discretion of the governing board having authority over a given fire district, fire department, or fire brigade, then the disease shall be presumed to be proximately caused by the firefighter's employment as a firefighter:

(i) Brain cancer after ten (10) years;

(ii) Bladder cancer after twelve (12) years;

(iii) Kidney cancer after fifteen (15) years;

(iv) Colorectal cancer after ten (10) years;
(v) Non-Hodgkin's lymphoma after fifteen (15) years;
(vi) Leukemia after five (5) years;
(vii) Mesothelioma after ten (10) years;
(viii) Testicular cancer after five (5) years if diagnosed before the age of forty (40) years with no evidence of anabolic steroids or human growth hormone use;
(ix) Breast cancer after five (5) years if diagnosed before the age of forty (40) years without a breast cancer 1 or breast cancer 2 genetic predisposition to breast cancer;
(x) Esophageal cancer after ten (10) years; and
(xi) Multiple myeloma after fifteen (15) years.

(c) The presumption created in this subsection may be overcome by substantial evidence to the contrary. If the presumption is overcome by substantial evidence, then the firefighter or the beneficiaries must prove that the firefighter's disease was caused by his or her duties of employment.

(d) The presumption created in this subsection shall not preclude a firefighter from demonstrating a causal connection between employment and disease or injury by a preponderance of evidence before the Idaho industrial commission.

(e) The presumption created in this subsection shall not apply to any specified disease diagnosed more than ten (10) years following the last date on which the firefighter actually worked as a firefighter as defined in paragraph (a) of this subsection. Nor shall the presumption apply if a firefighter or a firefighter's cohabitant has regularly and habitually used tobacco products for ten (10) or more years prior to the diagnosis.

(f) The periods of employment described in paragraph (b) of this subsection refer to periods of employment within the state of Idaho.

Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards that are common to the public in general and that are not within the meaning of section 72-102(22)(a), Idaho Code, and the diseases enumerated in subsection (12) of this section pertaining to firefighters shall not be subject to the limitations prescribed in section 72-439, Idaho Code.

[72-438, added 1971, ch. 124, sec. 3, p. 422; am. 1973, ch. 108, sec. 1, p. 193; am. 1981, ch. 261, sec. 8, p. 557; am. 1989, ch. 155, sec. 14, p. 394; am. 1990, ch. 188, sec. 1, p. 417; am. 2001, ch. 212, sec. 1, p. 837; am. 2006, ch. 206, sec. 5, p. 634; am. 2016, ch. 276, sec. 2, p. 763; am. 2021, ch. 82, sec. 4, p. 271; am. 2025, ch. 67, sec. 4, p. 325.]

72-439. ACTUALLY INCURRED/NONACUTE OCCUPATIONAL DISEASE. (1) An employer shall not be liable for any compensation for an occupational disease unless such disease is actually incurred in the employer's employment.

(2) An employer shall not be liable for any compensation for a nonacute occupational disease unless the employee was exposed to the hazard of such disease for a period of sixty (60) days for the same employer.

(3) Where compensation is payable for an occupational disease, the employer, or the surety on the risk for the employer, in whose employment the

employee was last injuriously exposed to the hazard of such disease, shall be liable therefor.

[72-439, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 12, p. 812.]

72-440. TIME OF DEPENDENCY -- DEATH BENEFITS. No compensation for death from an occupational disease shall be payable to any person whose relationship to the deceased, which would give right to compensation, arose subsequent to the beginning of the first compensable disability, save only to posthumous children of a marriage existing at the beginning of such disability.

[72-440, added I.C., sec. 72-440, as added by 1971, ch. 124, sec. 3, p. 422.]

72-441. NO COMPENSATION IN CASE OF MISREPRESENTATION. No compensation shall be payable for an occupational disease if the employee, at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, falsely represented himself in writing as not having previously been disabled, laid off, or compensated in damages or otherwise because of such disease.

[72-441, added I.C., sec. 72-441, as added by 1971, ch. 124, sec. 3, p. 422.]

72-443. PERIOD OF EXPOSURE IN SILICOSIS CASES. No claim for disability or death from silicosis shall be maintained or prosecuted unless during the ten (10) years immediately preceding the date of disablement the employee has been exposed to the inhalation of silica dust over a period of not less than five (5) years, the last two (2) of which shall have been in this state, under a contract of employment existing in this state, provided, that if the employee shall have been employed by the same employer during the whole of such five (5) year period his right to compensation against such employer shall not be affected by the fact that he had been employed during any part of such period outside of this state.

[72-443, added I.C., sec. 72-443, as added by 1971, ch. 124, sec. 3, p. 422.]

72-444. NO COMPENSATION FOR PARTIAL DISABILITY FROM SILICOSIS. Compensation shall not be payable for partial disability due to silicosis.

[72-444, added I.C., sec. 72-444, as added by 1971, ch. 124, sec. 3, p. 422.]

72-445. COMPENSATION FOR TOTAL DISABILITY OR DEATH FROM COMPLICATED SILICOSIS. In case of disability or death from silicosis, complicated with tuberculosis of the lungs, income benefits shall be payable as for uncomplicated silicosis, provided, that the silicosis was an essential factor in causing such disability or death. In case of disability or death from silicosis complicated with any other disease, or from any other disease complicated with silicosis, the income benefits shall be reduced as provided in section 72-406.

[72-445, added I.C., sec. 72-445, as added by 1971, ch. 124, sec. 3, p. 422.]

72-446. NONDISABLING SILICOSIS -- COMPENSATION UPON SEVERANCE FROM EMPLOYMENT. (1) When an employee, because he has nondisabling silicosis, is discharged from employment in which he is engaged, or when such an employee, after an examination as provided in subsection (2) of this section, and a finding by the medical panel that it is inadvisable for him to continue in his employment, terminates his employment, the commission may allow such compensation on account of such termination of employment as it may deem just, as support money pending his change of employment, payable as in this law elsewhere provided, but in no case to exceed five thousand dollars ($5,000).

(2) Upon application of any employer or employee, the commission may direct any employee of such employer or any employee who, in the course of his employment has been exposed to the inhalation of silica dust, to submit to a medical examination to determine whether the employee has silicosis, and the degree thereof. The results of the examination shall be submitted to the commission, which shall submit copies of such reports to the employer and employee, who shall have opportunity to rebut the same, provided, request therefor is made to the commission within thirty (30) days from the mailing of such report to the parties. The commission shall make its findings as to whether it is inadvisable for the employee to continue in his employment.

[72-446, added I.C., sec. 72-446, as added by 1971, ch. 124, sec. 3, p. 422.]

72-447. RECURRING DERMATITIS. A person who has suffered disability from dermatitis and has received income benefits therefor shall not be entitled to income benefits for disability from a later attack of dermatitis due to substantially the same cause, unless immediately preceding the date of the later disablement he has been engaged in the occupation to which the recurrence of the disease is ascribed and under the same employer for at least sixty (60) days.

[72-447, added I.C., sec. 72-447, as added by 1971, ch. 124, sec. 3, p. 422.]

72-448. NOTICE AND LIMITATIONS. (1) Unless written notice of the manifestation of an occupational disease is given to the employer within sixty (60) days after its first manifestation, or to the industrial commission if the employer cannot be reasonably located within ninety (90) days after the first manifestation, and unless claim for worker's compensation benefits for an occupational disease is filed with the industrial commission within one (1) year after the first manifestation, all rights of the employee to worker's compensation due to the occupational disease shall be forever barred.

(2) Unless written notice of death from an occupational disease is given to the employer within ninety (90) days after the death, or to the industrial commission if the employer cannot be reasonably located within ninety (90) days after the death, and unless claim for worker's compensation benefits for the death is filed with the industrial commission within one (1) year after the death, all rights to worker's compensation benefits for the death shall be forever barred.

(3) If notice is given to the industrial commission under subsection (1) or (2) of this section, the industrial commission shall promptly give notice to the employer and the surety.

[72-448, as added by 1971, ch. 124, sec. 3, p. 422; am. 1978, ch. 264, sec. 13, p. 585; am. 1987, ch. 108, sec. 1, p. 220; am. 1997, ch. 274, sec. 13, p. 812.]

72-449. POST MORTEM EXAMINATION. Upon the filing of a claim for compensation for death from an occupational disease when an autopsy is necessary accurately and scientifically to ascertain and determine the cause of death, the autopsy shall be ordered by the commission. The commission may designate a duly licensed physician, who is a specialist in such examination, to perform or attend the autopsy and to certify his findings thereon. Such findings shall be filed with the commission and shall be a public record. The commission also may exercise such authority on its own motion or on application made to it at any time by any party in interest, in regard to the cause of death or the existence of any occupational disease. All proceedings for compensation shall be suspended upon refusal of a claimant or claimants to permit such autopsy when so ordered, and no compensation shall be payable during the continuance of such refusal.

[72-449, added I.C., sec. 72-449, as added by 1971, ch. 124, sec. 3, p. 422.]

72-450. RETRAINING. Following a hearing upon a motion of the employer, the employee, or the commission, if the commission deems a permanently disabled employee, after the period of recovery, is receptive to and in need of retraining in another field, skill or vocation in order to restore his earning capacity, the commission may authorize or order such retraining and during the period of retraining or any extension thereof, the employer shall continue to pay the disabled employee, as a subsistence benefit, temporary total or temporary partial disability benefits as the case may be. The period of retraining shall be fixed by the commission but shall not exceed fifty-two (52) weeks unless the commission, following application and hearing, deems it advisable to extend the period of retraining, in which case the increased period shall not exceed fifty-two (52) weeks. An employer and employee may mutually agree to a retraining program without the necessity of a hearing before the commission.

[72-450, as added by 1974, ch. 132, sec. 6, p. 1329; am. 1978, ch. 264, sec. 14, p. 586; am. 1997, ch. 274, sec. 14, p. 813.]

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(a) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(17)(a) through (c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where:

(i) It results in resultant physical injury as long as the psychological mishap or event meets the other criteria of this section;

(ii) It is readily recognized and identifiable as having occurred in the workplace; and

(iii) It must be the product of a sudden and extraordinary event;

(b) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination;

(c) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section;

(d) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense;

(e) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the terminology and criteria of the American psychiatric association's diagnostic and statistical manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(f) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

(2) Nothing in subsection (1) of this section shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

(3) The provisions of subsection (1) of this section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

(4) Notwithstanding subsection (1) of this section, post-traumatic stress injury suffered by a first responder is a compensable injury or occupational disease when the following conditions are met:

(a) The first responder is examined and subsequently diagnosed with post-traumatic stress injury by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in post-traumatic stress injury; and

(b) Clear and convincing evidence indicates that the post-traumatic stress injury was caused by an event or events arising out of and in the course of the first responder's employment.

(5) No compensation shall be paid for such injuries described in subsection (4) of this section arising from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation, or employment termination.

(6) As used in subsection (4) of this section:

(a) "Post-traumatic stress injury" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder or post-traumatic stress injury specified by the American psychiatric association's diagnostic and statistical manual of mental disorders, fifth edition revised, or any successor manual promulgated by the American psychiatric association.

(b) "First responder" means:

(i) A peace officer as defined in section 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho state police;

(ii) A firefighter as defined in section 59-1302(16), Idaho Code;

(iii) A volunteer emergency responder as defined in section 72-102, Idaho Code;

(iv) An emergency medical services provider and an ambulance-based clinician certified pursuant to chapter 9, title 46, Idaho Code; and

(v) An emergency communications officer as defined in section 19-5101(f), Idaho Code.

(7) Subsections (4) through (6) of this section are effective for first responders with dates of injury or manifestations of occupational disease on or after July 1, 2019.

[72-451, added 1994, ch. 112, sec. 2, p. 259; am. 2006, ch. 206, sec. 6, p. 635; am. 2019, ch. 68, sec. 1, p. 161; am. 2021, ch. 82, sec. 5, p. 273; am. 2021, ch. 83, sec. 2, p. 281; am. 2025, ch. 67, sec. 5, p. 327; am. 2025, ch. 94, sec. 36, p. 490; am. 2025, ch. 211, sec. 36, p. 1006.]