

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

CHAPTER 7
PROCEDURES

72-701. NOTICE OF INJURY AND CLAIM FOR COMPENSATION FOR INJURY -- LIMITATIONS. No proceedings under this law shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable but not later than sixty (60) days after the happening thereof, and unless a claim for compensation with respect thereto shall have been made within one (1) year after the date of the accident or, in the case of death, then within one (1) year after such death, whether or not a claim for compensation has been made by the employee. Such notice and such claim may be made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of compensation have been made voluntarily or if an application requesting a hearing has been filed with the commission, the making of a claim within said period shall not be required.

[72-701, added I.C., sec. 72-701, as added by 1971, ch. 124, sec. 3, p. 422; am. 1978, ch. 264, sec. 19, p. 588.]

72-702. FORM OF NOTICE AND CLAIM. Such notice and such claim shall be in writing; the notice shall contain the name and address of the employee, and shall state in ordinary language the time, place, nature and cause of the injury or disease and shall be signed by him or by a person on his behalf, or, in the event of his death, by any one or more of his dependents, or by a person on their behalf. The notice may include the claim.

[72-702, added I.C., sec. 72-702, as added by 1971, ch. 124, sec. 3, p. 422.]

72-703. GIVING OF NOTICE AND MAKING OF CLAIM. Any notice under this law shall be given to the employer, or, if the employer is a partnership, then to any one (1) of the partners. If the employer is a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. Such notice shall be given by delivering it or by sending it by registered or certified mail addressed to the employer at his or its last known residence or place of business. The foregoing provisions shall apply to the making of a claim.

[72-703, added I.C., sec. 72-703, as added by 1971, ch. 124, sec. 3, p. 422.]

72-704. SUFFICIENCY OF NOTICE -- KNOWLEDGE OF EMPLOYER. A notice given under the provisions of section 72-701 or section 72-448, Idaho Code, shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature or cause of the injury, or disease, or otherwise, unless it is shown by the employer that he was in fact prejudiced thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this law if it is shown that the employer, his agent or representative had knowledge of the injury or occupational disease or that the employer has not been prejudiced by such delay or want of notice.

[72-704, added I.C., sec. 72-704, as added by 1971, ch. 124, sec. 3, p. 422; am. 1978, ch. 264, sec. 20, p. 589.]

72-705. LIMITATION OF TIME -- MINORS AND INCOMPETENTS. No limitation of time provided in this law shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

[72-705, added I.C., sec. 72-705, as added by 1971, ch. 124, sec. 3, p. 422.]

72-706. LIMITATION ON TIME ON APPLICATION FOR HEARING. (1) When no compensation paid. When a claim for compensation has been made and no compensation has been paid thereon, the claimant, unless misled to his prejudice by the employer or surety, shall have one (1) year from the date of making claim within which to make and file with the commission an application requesting a hearing and an award under such claim.

(2) When compensation discontinued. When payments of compensation have been made and thereafter discontinued, the claimant shall have five (5) years from the date of the accident causing the injury or date of first manifestation of an occupational disease within which to make and file with the commission an application requesting a hearing for further compensation and award.

(3) When income benefits discontinued. If income benefits have been paid and discontinued more than four (4) years from the date of the accident causing the injury or the date of first manifestation of an occupational disease, the claimant shall have one (1) year from the date of the last payment of income benefits within which to make and file with the commission an application requesting a hearing for additional income benefits.

(4) Medical benefits. The payment of medical benefits beyond five (5) years from the date of the accident causing the injury or the date of first manifestation of an occupational disease shall not extend the time for filing a claim or an application requesting a hearing for additional income benefits as provided in this section.

(5) Right to medical benefits not affected. Except under circumstances provided in subsection (1) of this section, the claimant's right to medical benefits under the provisions of section 72-432(1), Idaho Code, shall not be otherwise barred by this section.

(6) Relief barred. In the event an application is not made and filed as in this section provided, relief on any such claim shall be forever barred.

[72-706, as added by 1971, ch. 124, sec. 3, p. 422; am. 1978, ch. 264, sec. 21, p. 589; am. 1989, ch. 244, sec. 1, p. 592; am. 1991, ch. 206, sec. 1, p. 487; am. 2005, ch. 161, sec. 2, p. 496.]

72-707. COMMISSION HAS JURISDICTION OF DISPUTES. All questions arising under this law, if not settled by agreement or stipulation of the interested parties with the approval of the commission, except as otherwise herein provided, shall be determined by the commission.

[72-707, added I.C., sec. 72-707, as added by 1971, ch. 124, sec. 3, p. 422.]

72-708. PROCESS AND PROCEDURE. Process and procedure under this law shall be as summary and simple as reasonably may be and as far as possible in accordance with the rules of equity.

[72-708, added I.C., sec. 72-708, as added by 1971, ch. 124, sec. 3, p. 422.]

72-709. ATTENDANCE OF WITNESSES -- PRODUCTION OF DOCUMENTS -- DEPOSITION -- WITNESS FEES. (1) The commission or any member thereof or any hearing officer, examiner or referee appointed by the commission shall have the power to subpoena witnesses, administer oaths, take testimony, issue subpoenas duces tecum, and to examine such of the books and records of the parties to a proceeding as relates to the questions in dispute.

(2) The district court shall have the power to enforce by proper proceedings the attendance and testimony of witnesses, and the production and examination of books, papers and records.

(3) The testimony of any witness for use as evidence in any proceeding may be taken by deposition or interrogatories.

(4) No person shall be required to attend as a witness in any such proceeding unless his lawful mileage and witness fee for one (1) day's attendance shall first be paid or tendered to him.

[72-709, added I.C., sec. 72-709, as added by 1971, ch. 124, sec. 3, p. 422.]

72-710. TRANSCRIPTS OF PROCEEDINGS. A stenographic or machine transcription of any proceeding or of testimony adduced at any hearing, shall be taken by the commission.

[72-710, added I.C., sec. 72-710, as added by 1971, ch. 124, sec. 3, p. 422.]

72-711. COMPENSATION AGREEMENTS. If the employer and the afflicted employee reach an agreement in regard to compensation under this law, a memorandum of the agreement shall be filed with the commission, and, if approved by it, thereupon the memorandum shall for all purposes be an award by the commission and be enforceable under the provisions of section 72-735, unless modified as provided in section 72-719. An agreement shall be approved by the commission only when the terms conform to the provisions of this law.

[72-711, added I.C., sec. 72-711, as added by 1971, ch. 124, sec. 3, p. 422.]

72-712. HEARINGS. Upon application of any party to the proceeding, or when ordered by the commission or a member thereof or a hearing officer, referee or examiner, and when issues in a case cannot be resolved by pre-hearing conferences or otherwise, a hearing shall be held for the purpose of determining the issues.

[72-712, added I.C., sec. 72-712, as added by 1971, ch. 124, sec. 3, p. 422.]

72-713. NOTICE OF HEARINGS -- SERVICE. The commission shall give at least ten (10) days' written notice of the time and place of hearing and of the issues to be heard, either by personal service or by registered 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.

[72-713, added I.C., sec. 72-713, as added by 1971, ch. 124, sec. 3, p. 422.]

72-714. HEARINGS, WHERE AND HOW CONDUCTED. (1) The hearing may be held in the city or town or within the county where the injury or disease occurred, or in such other place as the commission deems most convenient for the parties and most appropriate for ascertaining their rights.

(2) If the place of hearing claimant's testimony is outside the county and the claimant's presence is deemed necessary, the commission shall cause or require to be paid to the claimant a reasonable sum to reimburse him for his travel expense, unless otherwise agreed by the parties.

(3) The commission, or member thereof, or a hearing officer, referee or examiner, to whom the matter has been assigned, shall make such inquiries and investigations as may be deemed necessary.

(4) The authority of the commission, or of a member, hearing officer, referee or examiner, shall include the right to enter premises at any reasonable time where an injury, disease or death has occurred and to make such examination of any tool, appliance, process, machinery or environmental or other condition as may be relevant to a determination of the cause and circumstances of the injury, disease, or death.

[72-714, added I.C., sec. 72-714, as added by 1971, ch. 124, sec. 3, p. 422.]

72-715. DISOBEDIENCE TO COMMISSION'S DIRECTIVE PROCESS. If any person in proceedings before the commission or a member thereof, or hearing officer, referee or examiner, disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same or neglects to produce, after having been ordered to do so, any pertinent book, paper or document or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath or affirmation as a witness, or after taking the oath or affirmation refuses to be examined according to law, the commission, or member thereof, or hearing officer, referee or examiner, shall certify the facts to the district court in the jurisdiction where the offense is committed and the court, if the evidence so warrants, shall punish such person in the same manner and to the same extent as for contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process in the presence of the court.

[72-715, added I.C., sec. 72-715, as added by 1971, ch. 124, sec. 3, p. 422.]

72-716. RECORD OF PROCEEDINGS -- SERVICE OF ORDER OR AWARD. A decision of the commission together with the transcript of the evidence, findings of fact, rulings of law, award or order, and any other matter pertinent to the questions arising during the hearing shall be filed in the office of the commission. A copy of the decision shall be immediately sent to the parties by United States mail.

[72-716, added I.C., sec. 72-716, as added by 1971, ch. 124, sec. 3, p. 422.]

72-717. EFFECT OF DECISION BY ONE MEMBER OR ASSIGNED OFFICER -- CLAIM FOR REVIEW. If the matter has been assigned for hearing by a member, hearing officer, referee, or examiner, the record of such hearing, together with the recommended findings and determination, shall be submitted to the commission for its review and decision.

[72-717, added I.C., sec. 72-717, as added by 1971, ch. 124, sec. 3, p. 422.]

72-718. FINALITY OF COMMISSION'S DECISION. A decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision, or the commission may rehear or reconsider its decision on its own initiative, and in any such events the decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on rehearing or reconsideration. Final decisions may be appealed to the Supreme Court as provided by section 72-724, Idaho Code.

[72-718, added I.C., sec. 72-718, as added by 1971, ch. 124, sec. 3, p. 422; am. 1977, ch. 300, sec. 1, p. 839.]

72-719. MODIFICATION OF AWARDS AND AGREEMENTS -- GROUNDS -- TIME WITHIN WHICH MADE. (1) On application made by a party in interest filed with the commission at any time within five (5) years of the date of the accident causing the injury or date of first manifestation of an occupational disease, on the ground of a change in conditions, the commission may, but not oftener than once in six (6) months, review any order, agreement or award upon any of the following grounds:

(a) Change in the nature or extent of the employee's injury or disablement; or

(b) Fraud.

(2) The commission on such review may make an award ending, diminishing or increasing the compensation previously agreed upon or awarded, subject to the maximum and minimum provided in this law, and shall make its findings of fact, rulings of law and order or award, file the same in the office of the commission, and immediately send a copy thereof to the parties.

(3) The commission, on its own motion at any time within five (5) years of the date of the accident causing the injury or date of first manifestation of an occupational disease, may review a case in order to correct a manifest injustice.

(4) This section shall not apply to a commutation of payments under section 72-404[, Idaho Code].

[72-719, added I.C., sec. 72-719, as added by 1971, ch. 124, sec. 3, p. 422.]

72-724. APPEAL TO SUPREME COURT. An appeal may be made to the supreme court by such parties from such decisions and orders of the commission and within such times and in such manner as prescribed by rule of the supreme court.

[72-724, added 1977, ch. 300, sec. 4, p. 843.]

72-725. RECORD ON APPEAL. The agency's record and reporter's transcript in an appeal to the supreme court shall contain such portions and documents of the proceedings of the commission, and be prepared, processed and transmitted to the supreme court as provided by rule of the supreme court. Provided, the cost of the transcript and record shall be paid for as provided by order of the industrial commission.

[72-725, added 1977, ch. 300, sec. 5, p. 844.]

72-731. STAY ON APPEAL. An appeal to the supreme court shall automatically operate as a supersedeas or stay of the award, order or decision being disputed on the appeal unless the commission shall otherwise order.

[72-731, added 1971, ch. 124, sec. 3, p. 483.]

72-732. DISPOSITION OF APPEAL -- JURISDICTION OF SUPREME COURT. Upon hearing the court may affirm or set aside such order or award, or may set it aside only upon any of the following grounds:

- (1) The commission's findings of fact are not based on any substantial competent evidence;
- (2) The commission has acted without jurisdiction or in excess of its powers;
- (3) The findings of fact, order or award were procured by fraud;
- (4) The findings of fact do not as a matter of law support the order or award.

[72-732, added I.C., sec. 72-732, as added by 1971, ch. 124, sec. 3, p. 422.]

72-733. LIMITED JURISDICTION OF COURTS. Except as herein provided, no court of this state shall have jurisdiction to review, vacate, set aside, reverse, revise, correct, amend or annul any order or award of the commission, or to suspend or delay the execution or operation thereof, or to enjoin, restrain or interfere with the commission in the performance of its duties.

[72-733, added I.C., sec. 72-733, as added by 1971, ch. 124, sec. 3, p. 422.]

72-734. INTEREST ON COMPENSATION AWARDS. Whenever a decision shall have been entered by the commission awarding compensation of any kind to a claimant, such award shall accrue and the employer shall become liable for, and shall pay, interest thereon from the date of such decision pursuant to the rates established and existing as of the date of such decision, pursuant to section 28-22-104(2), Idaho Code. Such interest shall accrue on all compensation then due and payable, and on all compensation successively becoming due thereafter, from the respective due dates, regardless of whether an appeal shall be taken from the decision of the commission, until the time of payment thereof.

[72-734, added 1981, ch. 262, sec. 2, p. 558.]

72-735. ENFORCEMENT OF AWARD -- FILING IN DISTRICT COURT -- DUTY OF COURT TO ENTER JUDGMENT. (1) In the event of default in payment of compensation due under an award and on or after the 30th day from the date upon which compensation became due, any party in interest may file in the district court for the county in which the injury or disease occurred if such occurred within the state, otherwise in the district court for the county in which the employer resides, a certified copy of the decision of the commission awarding compensation from which no appeal has been taken within the time allowed therefor, or a certified copy of the memorandum of agreement approved by the commission, and thereupon the court without notice shall render a decree or judgment in accordance therewith and cause the parties to be notified thereof.

(2) In case the employer maintains no place of business in this state, he shall be deemed to have appointed the secretary of state his agent for the purpose of acceptance of notice of entry of such decree or judgment and the

secretary of state shall take reasonable steps to give actual notice thereof to the employer.

(3) The fee required to be paid to the clerk of the district court for the filing of the petition or entry of such decree or judgment and for any enforcement procedure thereupon shall be the same as that provided by law for appeals to the district court from inferior tribunals.

[72-735, added I.C., sec. 72-735, as added by 1971, ch. 124, sec. 3, p. 422.]

72-736. DISTRICT COURT JUDGMENT NONAPPEALABLE -- A LIEN UPON EXECUTION. The decree or judgment from the district court entered pursuant to section 72-735, [Idaho Code,] shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though said decree or judgment had been rendered in an action duly heard and determined by said court, and shall with like effect be entered and docketed, except that there shall be no appeal therefrom and the same shall not constitute a lien upon the real property of the employer until recorded as any other judgment.

[72-736, added I.C., sec. 72-736, as added by 1971, ch. 124, sec. 3, p. 422.]

72-737. REVISION OF DISTRICT COURT'S JUDGMENT UPON MODIFICATION OF AWARD BY COMMISSION. The district court, upon the filing with it of a certified copy of a decision of the commission ending, diminishing or increasing compensation previously awarded, shall revoke or modify its prior decree or judgment so it will conform to said decision.

[72-737, added I.C., sec. 72-737, as added by 1971, ch. 124, sec. 3, p. 422.]