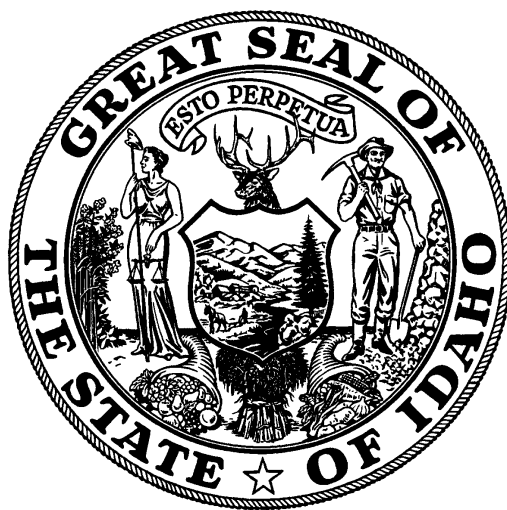


PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Commerce &
Human Resources Committee
63rd Idaho Legislature
First Regular Session**



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2015

HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 09 - DEPARTMENT OF LABOR

09.01.04 - UNEMPLOYMENT INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

DOCKET NO. 09-0104-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule change will reflect the legal standard used by the Idaho Supreme Court in unemployment insurance benefit fraud cases by explaining that to “willfully” make a false statement or to “willfully” fail to report a material fact in order to obtain unemployment insurance benefits only requires a purpose or willingness to commit the act or make the omission. It does not require an intent to violate the law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 168 through 169](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no fiscal impact to the General fund or to any dedicated fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joshua McKenna Benefits Bureau Chief (208) 332-3750 ext. 3919.

DATED this 26th Day of September, 2014.

Joshua McKenna
Benefits Bureau Chief
Department of Labor
317 West Main Street, Boise, ID 83735
Tel: (208) 332-3570 ext. 3919
Fax: (208) 334-6125
joshua.mckenna@labor.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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

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

This rule change will reflect the legal standard used by the Idaho Supreme Court in unemployment insurance benefit fraud cases by explaining that to “willfully” make a false statement or to “willfully” fail to report a material fact in order to obtain unemployment insurance benefits only requires a purpose or willingness to commit the act or make the omission. It does not require an intent to violate the law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no fiscal impact to the General fund or to any dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014 Idaho Administrative Bulletin, [Volume 14-7, page 35](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joshua McKenna Benefits Bureau Chief (208) 332-3750 ext. 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 21st day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0104-1401

014. WILLFUL STANDARD, FRAUD DETERMINATIONS.

For purposes of Section 72-1366(12), Idaho Code, to willfully make a false statement or to willfully fail to report a material fact to obtain benefits requires a purpose or willingness to commit the act or make the omission referred to. A specific intent to violate law is not required. ()

0145. -- 039. (RESERVED)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.06 - RULES OF THE APPEALS BUREAU

DOCKET NO. 09-0106-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The current rule allows appeals to be filed in any of the 25 Job Service Offices throughout the State. Those appeals are then collected and routed to the Department's Appeals Bureau in Boise, Idaho. This rule change will prevent appeals from being delayed or misdirected by requiring them to be filed by mail or electronically transmitted directly to the Department's Appeals Bureau.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 170 through 171](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no fiscal impact to the General fund. The fiscal impact to the Department will be positive. A streamlined appeals process will save the Department mailing and document handling costs and reduce Appeals Bureau and local office staff time.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Hohnstein Chief Appeals Bureau (208) 332-3752 ext. 3330.

DATED this 26th Day of September, 2014.

Amy Hohnstein
Chief Appeals Bureau
Department of Labor
317 West Main Street
Boise, ID 83735
Tel: (208) 332-3752 ext. 3330
Fax: (208) 334-6125
amy.hohnstein@labor.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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

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

The current rule allows appeals to be filed in any of the 25 Job Service Offices throughout the State. Those appeals are then collected and routed to the Department's Appeals Bureau in Boise, Idaho. This rule change will prevent appeals from being delayed or misdirected by requiring them to be filed by mail or electronically transmitted directly to the Department's Appeals Bureau.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no fiscal impact to the General fund. The fiscal impact to the Department will be positive. A streamlined appeals process will save the Department mailing and document handling costs and reduce Appeals Bureau and local office staff time.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7 page 36](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amy Hohnstein Chief Appeals Bureau (208) 332-3752 ext. 3330.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 21st Day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-1401

012. FILING OF AN APPEAL.

01. Filing of an Appeal Pursuant to the Employment Security Law. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination, redetermination or decision of the Department. ~~The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Appeals Bureau of the Department, 317 W. Main Street, Boise, Idaho 83735-0720.~~ Every determination, redetermination or decision of the Department shall contain and clearly identify the mailing address, fax number and electronic address for filing an appeal. To appeal a determination, redetermination or decision of the Department, interested parties must follow the instructions on the document being appealed. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed or electronically transmitted appeal that is received ~~by a Job Service office or the Appeals Bureau~~ by 5 p.m. ~~(as of the time zone of the office receiving the appeal)~~ on a business day shall be deemed filed on that date. A faxed or electronically transmitted appeal that is received ~~by a Job Service office or the Appeals Bureau~~ on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. ~~An appeal may also be filed by mailing it to any Job Service office or to the Appeals Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735-0720.~~ If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the envelope containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal shall be deemed to be timely filed. Ref. Section 72-1368(6), Idaho Code. (5-3-03)()

02. Filing of an Appeal Pursuant to the Claims for Wages Act. An appeal shall be in writing, signed by the appellant or the appellant's representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or revised determination of the Department. The appeal may be filed by personal delivery, by mail, ~~or~~ by fax, or by electronic transmission to the Wage and Hour Section of the Department at the address indicated on the Wage Claim Determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed or electronically transmitted appeal that is received by the Wage and Hour Section by 5 p.m. on a business day shall be deemed filed on that date. A faxed or electronically transmitted appeal that is received by the Wage and Hour Section on a weekend, holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. Ref. Section 45-617(6), Idaho Code. (4-5-00)()

03. Date of Mailing. The date indicated on Department determinations, revised determinations, redeterminations and decisions as the "Date of Mailing" or "Date Mailed" shall be presumed to be the date the document was deposited in the United States mail, or the date the document was electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, unless shown otherwise by a preponderance of competent evidence. (7-1-10)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The rule is being changed to reflect how the Department currently processes unemployment insurance claims. This rule change will delete references to mailed and in person claims because they are no longer used by the Department. Instead, claims are filed over the internet, or in special circumstances by telephone.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 172 through 178](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no fiscal impact to the General fund or to any dedicated fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joshua McKenna Benefits Bureau Chief (208) 332-3750 ext. 3919.

DATED this 26th Day of September, 2014.

Joshua McKenna
Benefits Bureau Chief
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317 West Main Street
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Fax: (208) 334-6125
joshua.mckenna@labor.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

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NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014 Idaho Administrative Bulletin, [Volume 14-7, page 37](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joshua McKenna Benefits Bureau Chief (208) 332-3750 ext. 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 21st day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1401

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

- 02. Administrative Office.** The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)
- 03. Appealed Claim.** An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)
- 04. Average Annual Wage.** For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)
- 05. Average Weekly Wage.** For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (4-11-06)
- 06. Benefit Balance.** The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)
- 07. Chargeability Determination.** A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)
- 08. Claim.** An application for unemployment insurance or "benefits." (3-19-99)
- 09. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)
- 10. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
- 11. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
- 12. Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
- 13. Corporate Officer.** Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. (4-4-13)
- 14. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned fourteen (14) times his weekly benefit amount. (4-11-06)
- 15. Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)
- 16. Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)
- 17. Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

- 18. Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)
- 19. Itinerant Point.** A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)
- 20. Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)
- 21. Local Office.** A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)
- ~~**22. Mail Claim.** A claim filed by mail rather than in person at a local office. (3-19-99)~~
- ~~**23. Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)~~
- ~~**24. New Claim.** The first initial claim made in a benefit year. (3-19-99)~~
- ~~**25. Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)~~
- ~~**26. Personal Identification Number (PIN).** A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)~~
- ~~**27. Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)~~
- ~~**28. Signature, Signed.** The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)~~
- ~~**29. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)~~
- ~~**30. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)~~
- ~~**31. Unemployment.** An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)~~
- ~~**32. Weekly Benefit Amount.** The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)~~

(BREAK IN CONTINUITY OF SECTIONS)

- 425. NEW CLAIMS/ADDITIONAL CLAIMS.**
Ref. Sec. 72-1308, Idaho Code. (3-19-99)
- 01. Claims for Benefits, Delayed Filing.** When any claims taking office has reason to believe there

will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, ~~in person~~ at a local office or at an itinerant location, ~~or by mail if permitted by a claims examiner.~~ New ~~interstate~~ claims may also be filed by telephone at the Department's discretion. (3-30-01)()

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

~~**b. In-person Filing.** A claimant may file a claim in person at the local office serving the claimant's area of residence. Local offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (4-11-06)~~

eb. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

dc. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

~~**e. Mailed Claims.** A claims examiner may allow a claimant to file a claim by mail when in person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)~~

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants shall be required to register for work in the State in which they reside and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)
- j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits may be denied for failure to provide proof of identity. A claimant notified by telephone of the need to provide proof of identity must provide the information to the Department within two (2) business days. A claimant notified by mail of the need to provide proof of identity must provide the information to the Department within five (5) business days of the date of mailing of the notice. (4-11-06)

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed fourteen (14) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (4-11-06)

10. Separation Notice. (3-19-99)

a. Notice to Employer of Separation. At the time a claim for benefits is filed, the Department will review the claimant's employment subsequent to which the claimant has not earned fourteen (14) times his weekly benefit amount. The Department will mail a separation notification letter to each employer within that period. A Department representative will then contact the employer within seven (7) business days for a response, unless the claimant indicated he quit the job for reasons not attributable to the employer. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, shall respond to the Department with the reasons for the separation whenever the claimant: (3-30-07)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)
- iv. Is not working due to a suspension; or (3-30-07)
- v. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, ~~in person~~ at a local office or at an itinerant location, ~~or~~ by telephone, ~~or by mail~~ at the Department's discretion. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (~~3-30-01~~) ()

~~**a.** In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)~~

~~**b.** Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)~~

ea. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

eb. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

ec. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a

reopen/additional claim.

(3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule shall result in ineligibility for benefits for the week(s) claimed. Ref. Section 72-1366(1), Idaho Code. (3-29-12)

~~**01. In Person Reports.** A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. (3-29-12)~~

021. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the next working day. (3-29-12)

032. Internet Reports. Reports filed via the internet shall be considered timely when made between 12:01 a.m. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (3-20-14)

043. Facsimile Reports. Reports filed by facsimile shall be considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

054. Electronic Mail Reports. Reports filed by electronic mail shall be considered timely when electronically mailed in a format provided by the Department to an email address designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

065. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was properly filed as required by this rule, a replacement report shall be considered timely. (3-29-12)

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

17.02.04 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS

DOCKET NO. 17-0204-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-408, 72-103, 72-102, 72-207, 72-419, 72-602 and 72-432, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 281 through 283](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation coordinator, (208) 334-6003.

DATED this 19th Day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-408, 72-103, 72-102, 72-207, 72-419, 72-602 and 72-432, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not

later than five (5) days prior to the hearing, to the agency address below.

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

The rule allows for the reimbursement of health care travel expenses of an injured worker who attends necessary medical appointments as a result of an industrial injury or occupational disease, pursuant to Section 72-432(1), Idaho Code; and the rule removes the form for the reimbursement of health care travel expenses from the actual rule and directs the injured worker to the Commission address or website to obtain the form.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included representatives of insurance carriers and medical providers, has been providing input to the Industrial Commission on the issue.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation Coordinator, (208) 334-6003.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0204-1401

321. RULE GOVERNING REIMBURSEMENT FOR TRAVEL EXPENSES.

01. Calculating Distance. As used in Section 72-432(1), Idaho Code, the phrase "... such reasonable medical, surgical or other attendance or treatment, ..." shall include the cost of transportation to and from a physician (as defined in Section 72-102(21), Idaho Code, and hospital appointments, where such transportation is reasonably related to or necessitated by the diagnosis, treatment, or care of claimant's industrial injury or occupational disease; provided, however, that claimant 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. (8-22-91)

02. Mileage Rate. If claimant has access to, and is able to operate, a vehicle for transportation

envisioned in Subsection 321.01, employer shall reimburse claimant at the mileage rate then allowed by the State Board of Examiners for State employees. Such rate shall be published annually by the Industrial Commission, together with the average state wage for the upcoming period. All such miles shall be reimbursed, with fractions of a mile greater than one-half (1/2) mile rounded to the next higher mile and fractions of a mile below one-half (1/2) mile disregarded. (8-22-91)

03. Commercial Transportation. If claimant has no vehicle, or has access to a vehicle and is reasonably unable to utilize the vehicle for transportation envisioned in Subsection 321.01 above, claimant's employer shall reimburse claimant the actual cost of commercial transportation as evidenced by actual receipts. Notwithstanding the above provision, no claimant shall be eligible for reimbursement of the actual cost of commercial transportation where such claimant is unable to operate a motor vehicle due to the revocation or suspension of driving privileges because claimant was under the influence of alcohol and/or drugs. (8-22-91)

04. Request for Reimbursement. It shall be claimant's responsibility to submit a travel reimbursement request to the employer. Such request shall be made on a form substantially the same as Industrial Commission Form IC 432(1), ~~which is substantially shown in draft format below~~ available from the Commission and posted on the Commission's website at www.iic.idaho.gov. The claimant must attach to the form a copy of a bill or receipt showing that the visit occurred. The employer shall furnish the claimant with copies of this form. (8-22-91)()

IC Form 432(1):

REIMBURSEMENT FOR HEALTH CARE TRAVEL EXPENSES
PURSUANT TO SECTION 72-432(1), IDAHO CODE

Name of Injured Worker _____

Claim # _____ *SSN:* _____

Address _____

Phone # _____

- ~~1. Use this form when claiming reimbursement for travel expenses incurred while pursuing reasonable or necessitated diagnosis, treatment, or care of an industrial injury or occupational disease.~~
- ~~2. Only mileage in excess of fifteen (15) miles for any given round trip is reimbursable. However, you should report the total mileage for each round trip. You are expected to take the shortest practical route of travel.~~
- ~~3. Reimbursement shall be made at the mileage rate allowed by the State Board of Examiners for state employees. The current rate for this mileage is available through your insurance company or by contacting the Idaho Industrial Commission.~~
- ~~4. While prompt submittal of your claim for travel reimbursement is important, you should not submit requests for reimbursement more frequently than once every thirty (30) days.~~
- ~~5. YOU MUST ATTACH TO THIS FORM A COPY OF A BILL OR RECEIPT SHOWING THAT EACH VISIT OCCURRED~~

~~A sample copy of IC Form 432(1) is available from the Industrial Commission,
Compensation Consultants,
700 S. Clearwater Lane,
P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.~~

(8-22-91)

05. Frequency of Requests. Claimant shall not request transportation reimbursement more frequently than once every thirty (30) days. However, notwithstanding this provision, should a claimant request transportation reimbursement more frequently than every thirty (30) days, employer need not issue more than one reimbursement check in any thirty-day (30) period. (8-22-91)

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

17.02.06 - EMPLOYERS' REPORTS

DOCKET NO. 17-0206-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-508, 72-432, 72-602 and 72-707, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 284 through 287](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation coordinator, (208) 334-6003.

DATED this 19th Day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-432, 72-602, and 72-707, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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

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

The rule eliminates the language that extends the deadline for filing of a summary of payments for adjusters who do not timely make indemnity payments; and changes the time period from sixty (60) days to one-hundred twenty (120) days to file a summary of payments in case of default by an employer for reason of insolvency or bankruptcy.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included representatives of insurance carriers and self-insured employers, has been providing input to the Industrial Commission on the issue.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation Coordinator, (208) 334-6003.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0206-1401

021. SUMMARIES OF PAYMENT.

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

- a. "Commission," means the Idaho Industrial Commission. (2-20-95)
- b. "Medical Only Claim," means the injured worker will neither suffer a disability lasting more than

five calendar days as a result of a job-related injury or occupational disease nor be admitted to a hospital as an in-patient. (2-20-95)

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

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

e. "Termination of disability," means the date upon which the obligation of the Employer/Surety/Adjuster becomes certain as to duration and amount whether by settlement, decision or periodic payments in the ordinary course of claims processing. If resolved by lump sum settlement (LSS), the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final. ~~In the context of periodic payments in the ordinary course of business, the termination of disability shall occur on the date on which final payment is made to the claimant.~~ (2-20-95)()

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

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

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

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

03. Form. The summary of payment forms are available, pre-printed, from the Industrial Commission, which has designated the form as IC Form 6. The summary of payment shall be submitted on eight and one-half by eleven inch (8 1/2" X 11") paper in a format substantially similar to the following: (2-20-95)

a. For death claims:

SUMMARY OF PAYMENTS

FATAL CASE

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

DEPENDENTS

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

Payments % AWSW	Amount	Weeks	Total	Remarks
Total Compensation Payments:				

BURIAL AND OTHER EXPENSES

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

Claims Examiner	Date
-----------------	------

INDUSTRIAL COMMISSION APPROVAL

APPROVED: _____, 20____
 BY: _____
b. For time-loss claims:

**SUMMARY OF PAYMENTS
 TIME-LOSS CASE**

Surety No. _____	I.C. No. _____
Injured Person:	
Social Security Number:	Employer:
Address:	Address:
Character of Injury:	
Date of Accident:	Actual Weekly Wages:
Date Able to Resume Work:	Compensation
Rate:	
Actual Time Lost:	Weeks Days
Date of First Payment:	

AWARDS OF PAYMENTS

Payments of Compensation	Amount	Type (TT or PP)
Begin	Weeks Days	Return to Work
Payment of Medical Benefits	Amount	
Doctor(s)		
Hospital(s)		
Physical Therapy		
Mileage		
Miscellaneous		

Comments:

Claims Examiner

Date

INDUSTRIAL COMMISSION APPROVAL

APPROVED: _____, 20____

BY: _____

(2-20-95)

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

05. Changes in Status. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and death claim within ~~sixty (60)~~ one hundred twenty (120) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. ~~(2-20-95)~~ (____)

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-404, 72-707, 72- 735, and 72-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 288 through 292](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation coordinator, (208) 334-6003.

DATED this 19th Day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-404, 72-707, 72-735, and 72-803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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

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

The rule provides the Industrial Commission's mailing address; and removes the form notice to claimants of a status change, pursuant to Section 72-806, Idaho Code, from the actual rule and directs the constituent to the Commission address or website to obtain the form.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included representatives of insurance carriers and self-insured employers, has been providing input to the Industrial Commission on the issue.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt Vook, Benefits Analyst Employer Education and Evaluation Coordinator, (208) 334-6003.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-1401

033. RULE GOVERNING APPROVAL OF ATTORNEY FEES IN WORKERS' COMPENSATION CASES.

01. Authority and Definitions. Pursuant to Sections 72-404, 72-508, 72-707, 72-735 and 72-803, Idaho Code, the Commission promulgates this rule to govern the approval of attorney fees. (4-7-11)

a. "Available funds" means a sum of money to which a charging lien may attach. It shall not include any compensation paid or not disputed to be owed prior to claimant's agreement to retain the attorney. (4-7-11)

b. "Approval by Commission" means the Commission has approved the attorney fees in conjunction

with an award of compensation or a lump sum settlement or otherwise in accordance with this rule upon a proper showing by the attorney seeking to have the fees approved. (4-7-11)

c. “Charging lien” means a lien, against a claimant’s right to any compensation under the Workers’ Compensation laws, which may be asserted by an attorney who is able to demonstrate that: (4-7-11)

i. There are compensation benefits available for distribution on equitable principles; (4-7-11)

ii. The services of the attorney operated primarily or substantially to secure the fund out of which the attorney seeks to be paid; (4-7-11)

iii. It was agreed that counsel anticipated payment from compensation funds rather than from the client; (4-7-11)

iv. The claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised; and (4-7-11)

v. There are equitable considerations that necessitate the recognition and application of the charging lien. (4-7-11)

d. “Fee agreement” means a written document evidencing an agreement between a claimant and counsel, in conformity with Rule 1.5, Idaho Rules of Professional Conduct (IRPC). (4-7-11)

e. “Reasonable” means that an attorney’s fees are consistent with the fee agreement and are to be satisfied from available funds, subject to the element of reasonableness contained in IRPC 1.5. (4-7-11)

i. In a case in which no hearing on the merits has been held, twenty-five percent (25%) of available funds shall be presumed reasonable; or (4-7-11)

ii. In a case in which a hearing has been held and briefs submitted (or waived) under Judicial Rules of Practice and Procedure (JRP), Rules X and XI, thirty percent (30%) of available funds shall be presumed reasonable; or (4-7-11)

iii. In any case in which compensation is paid for total permanent disability, fifteen percent (15%) of such disability compensation after ten (10) years from date such total permanent disability payments commenced. (4-7-11)

02. Statement of Charging Lien. (4-7-11)

a. All requests for approval of fees shall be deemed requests for approval of a charging lien. (4-7-11)

b. An attorney representing a claimant in a Workers’ Compensation matter shall in any proposed lump sum settlement, or upon request of the Commission, file with the Commission, and serve the claimant with a copy of the fee agreement, and an affidavit or memorandum containing: (4-7-11)

i. The date upon which the attorney became involved in the matter; (4-7-11)

ii. Any issues which were undisputed at the time the attorney became involved; (4-7-11)

iii. The total dollar value of all compensation paid or admitted as owed by employer immediately prior to the attorney’s involvement; (4-7-11)

iv. Disputed issues that arose subsequent to the date the attorney was hired; (4-7-11)

v. Counsel’s itemization of compensation that constitutes available funds; (4-7-11)

vi. Counsel’s itemization of costs and calculation of fees; and (4-7-11)

vii. Counsel's itemization of medical bills for which claim was made in the underlying action, but which remain unpaid by employer/surety at the time of lump sum settlement, along with counsel's explanation of the treatment to be given such bills/claims following approval of the lump sum settlement. (4-7-11)

viii. The statement of the attorney identifying with reasonable detail his or her fulfillment of each element of the charging lien. (4-7-11)

c. Upon receipt and a determination of compliance with this Rule by the Commission by reference to its staff, the Commission may issue an Order Approving Fees without a hearing. (4-7-11)

03. Procedure if Fees Are Determined Not to Be Reasonable. (4-7-11)

a. Upon receipt of the affidavit or memorandum, the Commission will designate staff members to determine reasonableness of the fee. The Commission staff will notify counsel in writing of the staff's informal determination, which shall state the reasons for the determination that the requested fee is not reasonable. Omission of any information required by Subsection 033.02 may constitute grounds for an informal determination that the fee requested is not reasonable. (4-7-11)

b. If counsel disagrees with the Commission staff's informal determination, counsel may file, within fourteen (14) days of the date of the determination, a Request for Hearing for the purpose of presenting evidence and argument on the matter. Upon receipt of the Request for Hearing, the Commission shall schedule a hearing on the matter. A Request for Hearing shall be treated as a motion under Rule III(e), JRP. (4-7-11)

c. The Commission shall order an employer to release any available funds in excess of those subject to the requested charging lien and may order payment of fees subject to the charging lien which have been determined to be reasonable. (4-7-11)

d. The proponent of a fee which is greater than the percentage of recovery stated in Subsections 033.01.e.i., 033.01.e.ii., or 033.01.e.iii. shall have the burden of establishing by clear and convincing evidence entitlement to the greater fee. The attorney shall always bear the burden of proving by a preponderance of the evidence his or her assertion of a charging lien and reasonableness of his or her fee. (4-7-11)

04. Disclosure. Upon retention, the attorney shall provide to claimant a copy of a disclosure statement. No fee may be taken from a claimant by an attorney on a contingency fee basis unless the claimant acknowledges receipt of the disclosure by signing it. Upon request by the Commission, an attorney shall provide a copy of the signed disclosure statement to the Commission. The terms of the disclosure may be contained in the fee agreement, so long as it contains the text of the numbered paragraphs one (1) and two (2) of the disclosure. A copy of the agreement must be given to the client. The disclosure statement shall be in a format substantially similar to the following:

State of Idaho
Industrial Commission

Client's name printed or typed _____

Attorney's name and address _____
printed or typed

DISCLOSURE STATEMENT

1. In workers' compensation matters, attorney's fees normally do not exceed twenty-five percent (25%) of the benefits your attorney obtains for you in a case in which no hearing on the merits has been completed. In a case in which a hearing on the merits has been completed, attorney's fees normally do not exceed thirty percent (30%) of the benefits your attorney obtains for you.

2. Depending upon the circumstances of your case, you and your attorney may agree to a higher or lower percentage which would be subject to Commission approval. Further, if you and your attorney have a dispute regarding attorney fees, either of you may petition the Industrial Commission, PO Box 83720, Boise, ID 83720-0041, to resolve the dispute.

I certify that I have read and understand this disclosure statement.

Client's Signature Date _____

Attorney's Signature Date _____

(4-7-11)(____)

034. -- 060. (RESERVED)

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

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

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

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

<i>IC Form 8:</i>		
NOTICE OF CLAIM STATUS		
<i>Injured Worker</i>	<i>SSN</i>	
<i>Date of Injury</i>		
<i>Employer</i>		
<i>Insurance Company</i>		
<i>Address</i>	<i>State</i>	<i>Zip</i>
<i>This is to notify you of the denial or change of status of your workers' compensation claim as indicated in the statement checked below.</i>		
<i>Your claim is denied.</i>		
<i>Reason</i>		
<i>Your benefit payments will be</i>	<i>Reduced</i>	<i>Increased</i>
<i>Effective date</i>		
<i>Reason</i>		
<i>Your benefit payments will be stopped.</i>	<i>Effective date</i>	

IC Form 8:

NOTICE OF CLAIM STATUS

~~Reason~~

~~Your claim is being investigated.~~

~~A decision should be made by~~

~~Other~~

~~Effective date~~

~~Explanation~~

~~See attached medical reports~~

~~Signature of insurance company adjuster/examiner~~

~~Date~~

~~Name (typed or printed)~~

~~A sample copy of IC Form 8 is available from the;
Industrial Commission
700 S. Clearwater Lane
P. O. Box 83720,
Boise, Idaho 83720-0041
Telephone (208) 334-6000.~~

~~(4-7-11)()~~

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

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

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2015, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723 and 72-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A public hearing was requested and granted on November 13, 2014. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 293 through 299](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Medical Fee Schedule Analyst (208) 334-6084.

DATED this 19th Day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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

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

This rule implements an update to the facility fee schedule to reflect market conditions. A change to the CPT code range affecting psychiatric diagnostic evaluations is made to align with coding changes implemented by the American Medical Association. A change to the reimbursement for certain hospital outpatient diagnostic lab services is made to align with a change made by Centers for Medicare & Medicaid Services (CMS). The allowable period for prompt payment by a payer is changed to commence upon acceptance of liability if made after receipt of the provider's bill.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included representatives of insurance carriers and medical providers, has been providing input to the Industrial Commission on the issue.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Medical Fee Schedule Analyst (208) 334-6084.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0209-1401

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY PHYSICIANS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided by physicians under the Idaho Workers' Compensation Law. (4-7-11)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by physicians. (4-7-11)

02. Adoption of Standard for Physicians. The Commission hereby adopts the Resource-Based

Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by physicians. (4-7-11)

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

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.33
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$135.00
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$124.00
Surgery - Group Three	10000 - 19999 20000 - 21999 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$88.54
Radiology	70000 - 79999	Radiology	\$88.54
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$49.00
Medicine - Group Two	9080750 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	\$70.00

~~(3-20-14)~~()

04. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-7-11)

05. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. (4-7-11)

06. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.03, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Section 035, below. (3-20-14)

07. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (4-7-11)

- a.** Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)
- b.** Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)
- c.** Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)
- d.** Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

08. Medicine Dispensed By Physicians. Reimbursement to physicians for any medicine shall not exceed the acceptable charge calculated for that medicine as if provided by a pharmacy under Section 033 of this rule without a dispensing or compounding fee. Reimbursement to physicians for repackaged medicine shall be the Average Wholesale Price (AWP) for the medicine prior to repackaging, identified by the National Drug Code (NDC) reported by the original manufacturer. Reimbursement may be withheld until the original manufacturer's National Drug Code (NDC) is provided by the physician. (7-1-13)

032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. (1-1-12)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by hospitals and ambulatory surgery centers. (1-1-12)

02. Adoption of Standards for Hospitals and ASCs. The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. (1-1-12)

- a.** Critical Access and Rehabilitation Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty

percent (50%). (1-1-12)

b. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand ~~two hundred~~ dollars (\$10,0200). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, implantable hardware charges billed for services without an MS-DRG weight shall be reimbursed at the rate of actual cost plus fifty percent (50%). (~~1-1-12~~)()

c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System (OPPS) APC weight in effect on the first day of January of the current calendar year. The base rate for hospital outpatient services is one hundred ~~and thirty-eight forty~~ dollars ~~and seventy-five cents~~ (\$138140.75). The base rate for ASC services is ninety-one dollars ~~and fifty cents~~ (\$901.50). (~~1-1-12~~)()

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

ii. Status code N items (~~other than implantable hardware~~) or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment except as provided in Subsection 032.02.c.ii.(1). or 032.02.c.ii.(2). of this rule. (~~1-1-12~~)()

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

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

iii. Two (2) or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). (1-1-12)

iv. Status code Q items with an assigned APC weight will not be discounted. (1-1-12)

d. Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no hospital fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. (1-1-12)

e. Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. (1-1-12)

i. Inpatient Threshold Exceeded. When the charge for a hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 032.02.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. (1-1-12)

ii. Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MS-DRG payment for invoiced implantable hardware where the aggregate invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent

(10%) of the invoice cost, but which does not exceed three thousand dollars (\$3,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

iii. Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the aggregate invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed one thousand dollars (\$1,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

03. Disputes. The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Section 035 of this rule. (1-1-12)

04. Adjustment of Hospital and ASC Base Rates. The Commission may periodically adjust the base rates set out in Subparagraphs 032.02.b. and 032.02.c. of this rule to reflect changes in inflation or market conditions. (1-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

035. BILLING AND PAYMENT REQUIREMENTS FOR MEDICAL SERVICES AND PROCEDURES PRELIMINARY TO DISPUTE RESOLUTION.

01. Authority. Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission hereby promulgates this rule governing billing and payment requirements for medical services provided under the Workers' Compensation Law and the procedures for resolving disputes between payors and providers over those bills or payments. (4-7-11)

02. Time Periods. None of the periods herein shall begin to run before the Notice of Injury/Claim for Benefits has been filed with the Employer as required by law. (4-7-11)

03. Provider to Furnish Information. A Provider, when submitting a bill to a Payor, shall inform the Payor of the nature and extent of medical services furnished and for which the bill is submitted. This information shall include, but is not limited to, the patient's name, the employer's name, the date the medical service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with this Subsection 035.03 to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Subsection 035.10 for that service. (7-1-13)

a. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate Current Procedural Terminology (CPT) coding, including modifiers, the appropriate Healthcare Common Procedure Coding System (HCPCS) code, the diagnostic and procedure code set version required by the Centers for Medicare and Medicaid Services (CMS) and the original National Drug Code (NDC) for the year in which the service was performed. (7-1-13)

b. The bill shall also contain the name, address and telephone number of the individual the Payor may contact in the event the Payor seeks additional information regarding the Provider's bill. (4-7-11)

c. If requested by the Payor, the bill shall be accompanied by a written report as defined by IDAPA 17.02.04, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Benefits." Subsection 322.01.f. Where a bill is not accompanied by such Report, the periods expressed in Subsections 035.04 and 035.06, below, shall not begin to run until the Payor receives the Report. (7-1-13)

04. Prompt Payment. Unless the Payor denies liability for the claim or, pursuant to Subsection 035.06, below, sends a Preliminary Objection, a Request for Clarification, or both, as to any charge, the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill or upon acceptance of liability, if made after bill

is received from Provider.

~~(7-1-13)~~()

05. Partial Payment. If the Payor acknowledges liability for the claim and, pursuant to Subsection 035.06, below, sends a Preliminary Objection, a Request for Clarification, or both, as to only part of a Provider's bill, the Payor must pay the charge or charges, or portion thereof, as to which no Preliminary Objection or Request for Clarification has been made, within thirty (30) calendar days of receipt of the bill. (4-7-11)

06. Preliminary Objections and Requests for Clarification. (4-7-11)

a. Whenever a Payor objects to all or any part of a Provider's bill on the ground that such bill contains a charge or charges that do not comport with the applicable administrative rule, the Payor shall send a written Preliminary Objection to the Provider within thirty (30) calendar days of the Payor's receipt of the bill explaining the basis for each of the Payor's objections. (4-7-11)

b. Where the Payor requires additional information, the Payor shall send a written Request for Clarification to the Provider within thirty (30) calendar days of the Payor's receipt of the bill, and shall specifically describe the information sought. (4-7-11)

c. Each Preliminary Objection and Request for Clarification shall contain the name, address and phone number of the individual located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. (4-7-11)

d. Where a Payor does not send a Preliminary Objection to a charge set forth in a bill or a Request for Clarification within thirty (30) calendar days of receipt of the bill, or provide an in-state contact in accord with Subsection 035.06.c., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. (7-1-13)

07. Provider Reply to Preliminary Objection or Request for Clarification. (4-7-11)

a. Where a Payor has timely sent a Preliminary Objection, Request for Clarification, or both, the Provider shall send to the Payor a written Reply, if any it has, within thirty (30) calendar days of the Provider's receipt of each Preliminary Objection or Request for Clarification. (4-7-11)

b. If a Provider fails to timely reply to a Preliminary Objection, the Provider shall be deemed to have acquiesced in the Payor's objection. (4-7-11)

c. If a Provider fails to timely reply to a Request for Clarification, the period in which the Payor shall pay or issue a Final Objection shall not begin to run until such clarification is received. (4-7-11)

08. Payor Shall Pay or Issue Final Objection. The Payor shall pay the Provider's bill in whole or in part or shall send to the Provider a written Final Objection, if any it has, to all or part of the bill within thirty (30) calendar days of the Payor's receipt of the Reply. (4-7-11)

09. Failure of Payor to Finally Object. Where the Payor does not timely send a Final Objection to any charge or portion thereof to which it continues to have an objection, it shall be precluded from further objecting to such charge as unacceptable. (4-7-11)

10. Dispute Resolution Process. If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors, as referenced in Sections 031, 032, 033, and 034 of this rule. If Provider's motion disputing CPT or MS-DRG coded items prevails, Payor shall pay the amount found by the Commission to be owed, plus an additional thirty percent (30%) of that amount to compensate Provider for costs and expenses associated with using the dispute resolution process. For motions filed by a Provider disputing items without CPT or MS-DRG codes, the additional thirty percent (30%) shall be due only if the Payor does not pay the amount found due within thirty (30) days of the administrative order. (7-1-13)

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

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

DOCKET NO. 17-0211-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-301, 72-301A, 72-302, and 72-304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 6, 2014 Idaho Administrative Bulletin, [Vol. 14-8, pages 70 through 76](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the General Fund. The negative impact to the Commission's dedicated fund is unknown at this time.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane McClaran, Financial Officer, (208) 334-6042.

DATED this 19th day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-508, 72-301, 72-301A, 72-302, and 72-304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

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

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

The rule is needed to implement the qualified exception requirements of self-insured employers under Section 72-301A, Idaho Code.

The rule also confers a benefit to existing self-insured employers by allowing the application of an experience modification when calculating premium tax payments.

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

The rule is necessary to comply with the requirements of Section 72-301A, Idaho Code, for employers at Idaho National Laboratory ("INL") working under a cost reimbursement contract with the federal government, and to allow the self-insured employer to apply for an experience modification rating from NCCI for use in its premium tax filing in compliance with Section 72-523, Idaho Code. The rule confers a benefit to existing self-insured employers by allowing the application of an experience modification when calculating premium tax payments.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the General Fund. The negative impact to the Commission's dedicated fund is unknown at this time.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule complies with the requirements of section 72-301A, requiring the Commission to adopt rules governing the administration of employer self-insurance.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Financial Officer Jane McClaran, (208) 334-6042.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 14th day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1401

013. RULES GOVERNING QUALIFICATIONS OF SELF-INSURED EMPLOYERS.

In order to be considered for approval by the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (4-7-11)

01. Payroll. Have an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000). However, if the applicant is approved to apply under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government, the employer must have an annual Idaho payroll of at least four million dollars (\$4,000,000) as of the effective date of the Commission's approval to act as a self-insured employer in Idaho. (4-7-11)()

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

03. Documentation. Submit documentation satisfactory to the Commission demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement; (4-7-11)

04. Adjuster. Designate in writing a licensed Idaho resident adjuster; (4-7-11)

05. Previous Claims. Provide a history of all workers' compensation claims filed with the employer or the employer's workers' compensation carrier, as well as all compensation paid, during the previous five (5) calendar years. (3-29-12)

06. Excess Insurance. Provide an insurance plan that must include excess insurance coverage and copies of all proposed policies of excess workers' compensation insurance coverage, unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. (3-20-14)()

07. Actuarial Study. Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. (3-29-12)

08. Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. (3-29-12)

09. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code; unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. (4-7-11)()

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

11. Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form set forth in Subsection 014.02, of this rule, in the amount of one hundred and fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000.00) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history; unless the applicant is approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. ~~(4-7-11)~~()

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

13. Written Approval. Obtain written approval from the Industrial Commission. (4-7-11)

014. CONTINUING REQUIREMENTS FOR SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall comply with the following requirements: (4-7-11)

01. Payroll Requirements. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000), unless the applicant was approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. Any self-insured employer that does not meet the payroll requirement of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their payroll or obtain workers' compensation coverage with an insurance carrier authorized to write workers' compensation insurance in the state of Idaho. ~~(3-29-12)~~()

02. Security Deposit with Treasurer. (4-7-11)

a. Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, a self-insurer's bond in substantially the form set forth below, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000), unless the applicant was approved by the Commission as qualified under the exception to this requirement provided by Section 72-301A, Idaho Code, for employers at Idaho National Laboratory working under a cost reimbursement contract with the federal government. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. In addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for compensation under the Workers' Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. ~~(3-29-12)~~()

b. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. (3-29-12)

c. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. (3-20-14)

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

e. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____, a corporation of the State of _____, hereinafter called the Principal, as Principal, and the _____, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of _____ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72, Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by

endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the ____ day of _____, 20__, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this ____ day of _____, 20__.

Countersigned

By

Resident Agent

Principal

SEAL

SEAL

By

By

Samples of this form are available from the Fiscal Bureau of the Industrial Commission, Telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (3-20-14)

03. Continue or Provide Guaranty Agreement. (3-20-14)

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

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

04. Maintain a Licensed Resident Adjuster. Maintain a resident licensed claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-7-11)

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

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

c. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

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

e. Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

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

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

b. The report shall provide the aggregate number of open claims, including indemnity with medical and medical only claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. (3-29-12)

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

d. The report shall be submitted on or in a format that is substantially the same as the current Form IC-211, "Self-Insured Employer Report of Total Unpaid Liability," available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. (3-20-14)

e. The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the employer shall prepare, certify and file a consolidated report of all unpaid liability. (3-29-12)

f. A self-insured employer shall also make such other reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-7-11)

06. Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Workers' Compensation Law. For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage. (3-20-14)

07. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Workers' Compensation Law. (4-7-11)

015. PREMIUM TAX COMPUTATION FOR SELF-INSURED EMPLOYERS.

01. Payroll Reports. No later than March 3rd and July 31st, self-insured employers shall file a semi-annual premium tax report with the Fiscal Bureau of the Commission. Self-insured employers shall use the Commission's current report form IC 4010, along with the accompanying computation form IC 4010a, available on the Commission's website or from the Fiscal Bureau. The premium tax payment due from a self-insured employer shall be based upon the manual premium calculated for each reporting period, as modified by an experience modification factor calculated by the National Council on Compensation Insurance (NCCI) and submitted to the Commission in accordance with Subsection 015.02 of this rule. No other rating factor shall be allowed. If the self-insured employer elects to not provide such experience modification factor, the premium tax will be computed based upon the manual premium only. ()

02. Experience Modification. A self-insured employer that elects to use an experience modification factor in computing premium tax shall make an annual application to NCCI for an experience modification factor using the NCCI form ERM-6 and paying to NCCI any fees charged for providing that calculation. An NCCI experience modification factor may only be based on the employer's Idaho operations for which self-insured status is authorized. In order to have an experience modification factor considered for any reporting period, an employer must timely submit to the Commission's Fiscal Bureau: ()

a. A copy of the completed form ERM-6 filed with NCCI; ()

b. The resulting experience modification factor received from NCCI; and ()

c. The completed IC 4010 Semi-Annual Premium Tax Form for Self-Insurers and IC 4010a Computation Form. ()

0156. -- 050. (RESERVED)

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION
17.05.01 - RULES UNDER THE CRIME VICTIMS COMPENSATION ACT
DOCKET NO. 17-0501-1401
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, and as specified herein, the pending rule becomes final and of full force and effect on July 1, 2015, after review by the legislature, unless the rule is rejected by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1004 and 72-1026, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 300 through 305](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact George Gutierrez, Crime Victims Bureau Chief, (208) 334-6070.

DATED this 19th Day of November, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-1004 and 72-1026, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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

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

The rule is necessary to implement updates under the CVC Medical Fee Schedule and clarify the calculations of the allowable payment of CPT Codes established by the American Medical Association; and provide direction and a consistent method for calculating mileage reimbursement for the necessary treatment and services for eligible victims of the program.

The rule is also necessary to clarify the limitations on how long providers have to file their claims with the program for payment consideration. It is difficult and time-consuming to gather the appropriate supporting documentation for claims that are several years old.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the amendments are necessary to implement the changes in the Current Procedural Terminology Codes, published by the American Medical Association. The Crime Victims Compensation Medical Fee Schedule is not correctly reimbursing providers for some services delivered to eligible victims of crime; and the rule amendment would allow the program to appropriately reimburse providers for eligible services.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact George Gutierrez, Crime Victims Bureau Chief, (208) 334-6070.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0501-1401

011. APPLICATIONS FOR COMPENSATION.

01. Claim for Benefits. To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Commission. Applications for Compensation shall be made using the form approved by the Commission. An Application for Compensation shall be deemed filed when it is received at the Commission's office in Boise. (4-7-11)

02. Providing Information. Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information. (11-17-86)

03. Employment Verification. To verify information concerning a victim's employment, the Commission may require the victim's employer or employers to complete an Employment Verification form or the Commission may obtain such information from an employer by telephone. (11-17-86)

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

05. Finality of Order. An award or order issued by the Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Commission reconsider the order or award, or the Commission may reconsider the matter on its own motion, and the award or order of the Commission shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any award or order is issued by the Commission, a claimant may file a Request for Hearing before the Commissioners. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing and requests that the Commission reconsider an order or award shall be deemed filed when received at the Commission's office in Boise. (4-7-11)

06. Recipients of Payments for Medical Services. If, pursuant to any order of the Commission or the Crime Victims Supervisor, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. (4-7-11)

07. Allowable Payments for Medical Services. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (4-7-11)

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (4-7-11)

i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. (4-7-11)

ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (4-7-11)

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (4-7-11)

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (4-7-11)

v. Paragraph 011.07.e. of this rule, shall not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (4-7-11)

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented

facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Anesthesia	00000 - 09999		\$60.05
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$144.48
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$113.52
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	\$69.14
Radiology	70000 - 79999	Radiology	\$87.72
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Medicine - Group One	90000 - 907949 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$46.44
Medicine - Group Two	9089750 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$66.56
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$72.24

(4-7-11)()

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-7-11)

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. (4-7-11)

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. (4-7-11)

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (4-7-11)

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

08. Wage Loss Benefits. For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, “wages received at the time of the criminally injurious conduct” shall be the victim’s gross weekly wage; which shall be determined as follows: (4-7-11)

a. If the wages were fixed by the year, the weekly wage shall be the yearly wage divided by fifty-two (52). (11-17-86)

b. If the wages were fixed by the month, the weekly wage shall be the monthly wage multiplied by twelve (12) and divided by fifty-two (52). (11-17-86)

c. If the wages were fixed by the week, the amount so fixed shall be the weekly wage. (11-17-86)

d. If the wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time-and-a-half for work in excess of forty (40) hours per week. (11-17-86)

e. If the wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with parts 1 through 3 of this rule; provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked. (11-17-86)

f. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (11-17-86)

09. Treating Physician. A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination. (11-17-86)

10. Overpayment. If the Commission erroneously makes payments to which a claimant is not entitled, the Commission may reduce future payments to that claimant by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. (4-7-11)

11. Limit on Compensation. Compensation payable under Sections 72-1019(7)(a) and 72-1019(7)(b), Idaho Code, may not exceed twenty thousand dollars (\$20,000). Compensation payable to a victim or his dependents under Sections 72-1019(7)(a) and 72-1019(7)(b), Idaho Code, when added to compensation payable under Sections 72-1019(2) and 72-1019(4), Idaho Code, may not exceed twenty-five thousand dollars (\$25,000). (4-7-11)

12. Weekly Compensation Benefits If Victim Employable But Not Employed. If a victim was employable, but not employed at the time of the criminally injurious conduct and as a result of that conduct has no reasonable prospect of being regularly employed in the normal labor market, he shall receive benefits pursuant to Section 72-1019(7)(a), Idaho Code, as follows, only until the victim has a reasonable prospect of being regularly employed in the normal labor market, or for a shorter period as determined by the Commission,; (4-7-11)

a. If at the time of the injurious conduct the victim was receiving unemployment benefits and as a result of that conduct the victim becomes ineligible for those benefits, the claimant’s weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred and fifty dollars (\$150) or his weekly benefit amount under the Employment Security Law. (4-7-11)

b. If at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain and if he was unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred and fifty dollars (\$150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin. (4-7-11)

c. If prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred and fifty dollars (\$150) per week. (4-7-11)

d. In other circumstances, the Commission may award an amount it deems appropriate. (11-17-86)

13. Effective Date. Benefits shall be paid only to claimants whose Applications for Compensation are based upon criminally injurious conduct which occurred on or after July 1, 1986. (11-17-86)

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

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

IDAPA 28.04.01 - IDAHO DEPARTMENT OF COMMERCE
28.04.01 - RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT
DOCKET NO. 28-0401-1402 (NEW CHAPTER)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4702, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 372 through 380](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rule will incur no cost to the general fund to initiate. The program is designed to reimburse taxes actually paid and will perpetually generate the revenues needed to fund the incentive. Incentives will be no more than 30% of taxes paid leaving a minimum of 70% of all new state tax revenue in the treasury. Incentives will last a maximum of 15 years.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Megan Ronk, Chief Operating Officer at (208) 287-3153.

DATED this 18th Day of November, 2014.

Megan Ronk, Chief Operating Officer
Department of Commerce
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0093
Tel: (208) 287-3153 / Fax: (208) 334-2631

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4702, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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

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

On July 1, 2014, the Idaho Department of Commerce adopted the temporary rules of the Idaho Reimbursement Incentive Act. The adoption of temporary rules was necessary to fulfill the requirements of the new Idaho Reimbursement Incentive Act as enacted in House Bill H0546a and to commence the possible award of a Tax Reimbursement Incentive (TRI) credit to businesses seeking expansion within the state of Idaho. While operating under temporary rules, the Department further refined and established the necessary applications, templates, workflow processes, incentive agreements and other supporting documentation necessary to execute the Idaho Reimbursement Incentive Act. During the development of processes, the Department sought the input of key stakeholders including other agencies, economic development professionals, and companies through solicited feedback and meetings.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rule will incur no cost to the general fund to initiate. The program is designed to reimburse taxes actually paid and will perpetually generate the revenues needed to fund the incentive. Incentives will be no more than 30% of taxes paid leaving a minimum of 70% of all new state tax revenue in the treasury. Incentives will last a maximum of 15 years.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However, the Department sought the input of a variety of parties throughout the state with specific information, knowledge, expertise and technical information about economic development and business expansion. Feedback was gathered from the Office of the Attorney General, Idaho State Tax Commission, local economic development professionals, site selectors, corporate decision makers, and corporate legal counsels.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Megan Ronk, Chief Operating Officer at 208-287-3153.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 26th Day of August, 2014

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0401-1402

IDAPA 28
TITLE 04
CHAPTER 01

28.04.01 - RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4744, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.04.01, “Rules Governing the Idaho Reimbursement Incentive Act.” ()

02. Scope. These rules implement House Bill No. 546, as amended in the Senate, and enacted by the Second Regular Session of the Sixty-second Legislature and signed into law on April 3, 2014. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4737 through 67-4744, Idaho Code. The seven (7) new sections provide rulemaking authority to the Director of the Department of Commerce, a short title and legislative intent, an application and pre-application process, formation of incentive agreements with the business entity, reimbursement to the business entity through an earned tax credit, annual reporting procedure and requirement of an annual report to the Legislature by the Director of the Department of Commerce. ()

002. WRITTEN INTERPRETATIONS.

The Department may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. These documents are available for public inspection at the Department’s office. ()

003. ADMINISTRATIVE APPEALS.

The award of a credit under the Tax Reimbursement Incentive Act is made at the recommendation of the Director of the Department of Commerce and approval of the Economic Advisory Council (Council). In light of the negotiated nature of awarding the Tax Reimbursement Incentive (TRI), there is no administrative appeal under these rules. Nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

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

The mailing address of the Department for information regarding the Tax Reimbursement Incentive Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). ()

007. -- 099. (RESERVED)

100. DEFINITIONS AND ABBREVIATIONS.

Unless defined below, all words shall have the meaning ascribed in Chapter 47, Title 67, Sections 67-4737 through 67-4744, Idaho Code. The statutory definitions can be found here: <http://legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4738.htm>. ()

01. Incentive Agreement. A reimbursement contract between the Department and the business entity which details any instruction provided by the Council in addition to the requirements detailed in Chapter 47, Title 67, Section 4740, Idaho Code. Also referred to as an Agreement. ()

02. Pre-Application. A form, paper or electronic, that is completed by the business entity or on behalf of the business entity by an authorized economic development or local government representative when details about the Meaningful Project are not fully known. A pre-application necessitates that an application is completed by the business entity or its authorized representative at a later time, and prior to award of a tax credit. ()

03. Tax Reimbursement Incentive Act (TRI). A performance based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho. Also known as the Idaho Reimbursement Incentive Act. ()

101. -- 129. (RESERVED)

130. PROGRAM INTENT.

The TRI is designed to accelerate the growth of new business opportunities, encourage the creation of high-paying jobs, and diversify the state's economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to thirty percent (30%) for up to fifteen (15) years on new business entity income tax, sales tax, and payroll taxes paid as a result of meaningful project. The TRI will perpetually generate the revenues needed to fund the incentive. ()

01. Available Credit. This credit is available to both existing and new companies seeking expansion in the state. The tax credit percentage and project term are negotiated based upon the quantity and quality of jobs created, state/regional economic impact and return on investment for Idaho, among others. The credit authorized shall be the lowest approved percentage and term that will incentivize creation of new jobs and New State Revenue.()

02. Evaluation and Recommendation. Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by detailed incentive agreements between the Department and business entity. ()

131. -- 149. (RESERVED)

150. ELIGIBILITY.

01. Eligible Recipients. Recipients of the TRI are limited to existing business entities located in Idaho seeking to expand their companies within the state of Idaho, and business entities, new to Idaho, seeking to relocate to, or expand in, the state of Idaho. ()

02. Eligible Projects. An eligible project is an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs based on rural or urban location. ()

151. JOB CREATION CRITERIA.

01. Rural Community. The minimum new jobs required for a rural community is not less than twenty (20) over the term of the project. ()

02. Urban Community. The minimum new jobs required for an urban community is not less than fifty (50) over the term of the project. ()

03. New Jobs. New jobs must exceed the business entities' maximum number of full times jobs in Idaho during the twelve (12) months immediately preceding the date of the application. ()

04. Job Shift. A job that shifts from one (1) location within the state of Idaho to another location within the state of Idaho is not considered a new job. ()

05. New Jobs Wages. New jobs wages must equal or exceed the average annual county wage in the county where the jobs are located. The Department will annually publish the average county wage based on the most recent, non-preliminary information, obtained from the Idaho Department of Labor. ()

152. APPLICATION PROCESS.

01. Inquiry. The business entity, or its authorized representative, may engage an authorized representative from the Department to complete an initial screening process. The screening process will assist the

business entity in determining to proceed with a pre-application or application. Information necessary during screening includes general details about the Project, the number of full-time jobs, the number of new jobs, the minimum new jobs, the rural or urban area under consideration, the industry, the community contribution, as well as any other information requested to determine eligibility. The business entity, in consultation with the Department's representative, shall make a determination to proceed with a pre-application or a full application depending on the project timeline, known project details or other factors associated with the project. ()

02. Pre-Application. After the business entity's determination to proceed with a pre-application, the business entity, or its authorized representative, will be provided with a pre-application. A pre-application may be completed by the business entity or an authorized representative of the business entity, such as an economic development or local government representative. A pre-application shall detail the following: ()

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; ()

b. A statement of dependency explaining whether the project will occur or how it will be altered if the application is denied by the council; ()

c. A letter from the city or county, or both, expressing a commitment to supply community contribution; ()

d. Detailed description of the proposed capital investment; ()

e. Detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and ()

f. Detailed description of the estimated new state tax revenues by tax to be generated by the project. ()

03. Pre-Application Estimate Letter. Upon review and acceptance of a pre-application, the Director may issue an estimate letter to the business entity or its authorized representative, or both, which describes the estimated amount of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. This letter is not a binding commitment but an estimate based on the initial information supplied in the pre-application. ()

04. Application. After the business entity's determination to proceed with an application, the business entity will be given access to the application, which shall include, but not be limited to, the following information: ()

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; ()

b. An affidavit of criticality explaining that without the TRI incentive, the business entity would be forced to alter its project or not choose Idaho; ()

c. A letter from the city or county, or both, describing their commitment to supply community contribution, a specific description of the contribution, and the amount of the contribution; ()

d. Business entities currently doing business in Idaho will supply a letter from the Idaho State Tax commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission; ()

e. An estimate of Idaho goods and services to be consumed or purchased by the business entity during the term; ()

f. Known or expected detriments to the environment or existing industries in the state; ()

- g.** An anticipated project inception date and proposed schedule of progress; ()
- h.** Any proposed performance requirements and measurements that must be met prior to issuance of the tax credit; ()
- i.** A description of any proposed capital investment; ()
- j.** A detailed schedule and description of the projected jobs to be created, the projected wages to be paid for those jobs, and the anticipated hiring schedule for those jobs; and ()
- k.** The estimated new state tax revenues to be generated by the project. ()

05. Application Recommendation Letter. Upon review of an application, the Director may issue a letter that details the Director's anticipated recommendation to the Council. The letter may include the percentage of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. All application recommendation letters shall contain a "subject to Economic Advisory Council approval" contingency clause. ()

06. Technical Review - Pre-Application. The Director and Department staff will complete a technical review of each pre-application. Upon satisfaction that all pre-application requirements are met, the Director may issue an estimate letter. ()

07. Technical Review - Application. The Director of the Department and Department staff will complete a technical review and economic impact analysis of each application. The technical review will consider many economic factors and external information sources such as, but not limited to, the region, industry, financial health and history of the business entity, as well as the quality, quantity and economic impact of new jobs and new state revenue. Upon satisfaction that all application requirements are met, the Director may submit a recommendation for award to the Council. ()

08. Economic Advisory Council. The Council shall review the application and the Director recommendations. Following review the council shall have the following three (3) options as follows: ()

- a.** Request additional information or action from the Director in order to obtain necessary information to approve or reject the application; or ()
- b.** Approve the application and instruct the Director to enter into an incentive agreement with the business entity; or ()
- c.** Reject the application. ()
- d.** An approval or rejection from the council shall not be considered a contested case pursuant to Chapter 52, Title 67, Idaho Code, provided, however, that nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. ()

09. Pre-Application Schedule. The pre-application is open year round. Review of pre-applications are subject to the meeting schedule of Department staff. ()

10. Application Schedule. The application is open year round. Review of applications is subject to the meeting schedule of Department Staff and the Council. The Council will meet no less than quarterly and has the ability to meet more often at the request of the Director. ()

153. -- 159. (RESERVED)

160. CONFLICT OF INTEREST. Conflict of Interest is defined by Idaho's Office of the Attorney General as any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private

pecuniary benefit of the person or member of the person's household, or a business with which the person or a member of the person's household is associated. In the event Department staff, including the Director has a conflict of interest regarding an application, the conflict shall be fully disclosed to the Director and the Council, and that person shall abstain from decision making or evaluation of the application. In the event a Council member has a conflict of interest regarding an application, the Council member shall fully disclose such conflict to the Director and the Council, and that Council member shall abstain from discussing or voting on the application. ()

161. -- 169. (RESERVED)

170. AGREEMENTS.

01. Incentive Agreement. At the direction of the Council, and in accordance with the criteria established by these rules, the Director shall enter into an incentive agreement with the business entity. ()

02. Agreement Terms Defined. The incentive agreement shall contain any terms as approved by the Council, or deemed necessary by the state Deputy Attorney General, as well as define the following: ()

- a.** Maximum term that shall not exceed fifteen (15) years; ()
- b.** Projected new state revenues to be generated during the term; ()
- c.** Method and recordkeeping requirements to determine projected new state revenue to be generated; ()
- d.** The approved tax credit percentage applied to new state revenue each year the business entity is entitled to receive the reimbursement during the term of the meaningful project; ()
- e.** The projected new jobs; ()
- f.** The terms and conditions of any and all performance requirements and measurements that must be met prior to the issuance of a tax credit authorization; ()
- g.** The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the business entity must be adequate to demonstrate to the director that all requirements and measurements have been met for the business entity to receive the tax credit; ()
- h.** The consequences of default by the business entity; ()
- i.** The period to be used to determine the taxes paid at the date of application; ()
- j.** Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. ()
- k.** The federal employer identification or social security number for each individual or entity stated as the business entity in the incentive agreement; and ()
- l.** Identification of the individual or entity that is or will be claiming the refundable credit. ()

171. -- 179. (RESERVED)

180. TAX CREDIT AUTHORIZATION.

01. Claiming Tax Credit. No business entity may claim a tax credit unless the business entity has a tax credit authorization issued by the Department. A business entity may claim a tax credit on its tax return, in the amount listed on the tax credit authorization for the year listed on the tax credit authorization. ()

02. Duplicate Copy. The Department shall provide a duplicate copy of any tax credit authorization to the Tax Commission. ()

181. -- 189. (RESERVED)

190. ANNUAL REPORTING BY APPLICANT.

Required Annual reporting shall be outlined in the incentive agreement and will include, but not be limited to, the following: ()

01. New State Revenues. Supporting documentation of the new state revenues from the business entity's new project that were paid during the preceding calendar year. ()

02. New Jobs Created. Supporting documentation of the new jobs that were created during the preceding tax year and the corresponding payroll information associated with the new jobs. ()

03. Known or Expected Detriments. Known or expected detriments to the environment or existing industries in the state. ()

04. Authorization Document. A document that expressly directs and authorizes the Tax Commission and Department of Labor to allow the Department access to the business entity's returns, filings and other information that may be necessary to verify or otherwise confirm the declared new state revenues, the new jobs and the associated payroll information. ()

05. Tax Commission Letter. A letter from the Idaho State Tax Commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission. ()

06. Other Entitle to Rebate. Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. ()

07. Supporting Documentation. Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the incentive agreement. ()

191. ANNUAL REPORTING BY DEPARTMENT.

The Department shall create an annual written report for the Governor and the Legislature describing the following: ()

01. Successes. The Department's success under this act in attracting new jobs; ()

02. Estimated Tax Credit Commitments. The estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid; ()

03. Economic Impact to State. The economic impact to the state related to generating new state revenue and providing tax credits under this act; ()

04. Estimated Costs and Benefits. The estimated costs and economic benefits of the tax credit commitments that the Department made; and ()

05. Actual Costs and Benefits. The actual costs and economic benefits of the tax credit commitments the Department made. ()

06. Submittal of Report. The report shall be submitted to the Office of the Governor and the appropriate legislative committee chairmen in a timely manner following the close of the state's fiscal year. ()

192. -- 199. (RESERVED)

200. AUDIT.

On or before November 1, 2015, and every year thereafter, the Department shall arrange for an independent third party audit pursuant to Chapter 47, Title 67, Idaho Code. The Department shall consider any audit recommendations provided during the audit and implement changes as necessary of a result of those recommendations. ()

201. -- 209. (RESERVED)

210. CONTINUATION OF TAX CREDIT.

During the term of the project for each business entity, the Department shall review the business entity's annual report. Provided the business entity provides a reasonable justification for authorizing or continuing a tax credit, the Department shall determine the amount of the tax credit to be granted, issue a tax credit authorization to the business entity, and provide a duplicate copy of the tax credit authorization to the Tax Commission. The amount of the tax credit to be continued shall be in accordance with the credit percentages specified in the incentive agreement. The TRI shall not be extended beyond the term and length specified in the incentive agreement. ()

211. TERMINATION OR SUSPENSION OF TAX CREDIT.

During the term of the project for each business entity, the Department shall review the business entity's annual report and if the information provided is inadequate or inaccurate to provide a reasonable justification for authorizing or continuing a tax credit, the Department shall: ()

01. Denial of Tax Credit. Deny the tax credit for that tax year; or ()

02. Termination of Agreement. Terminate the incentive agreement for failure to meet the performance standards established in accordance with the terms outlined in the incentive agreement; or ()

03. Request for Additional Documentation. Request the business entity to submit additional documentation. ()

212. -- 219. (RESERVED)

220. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT.

The Director shall suspend the issuance of all new incentive agreements with business entities upon the occurrence of the following conditions: ()

01. Temporary Spending Reduction. The governor orders a temporary reduction of general fund spending authority, pursuant to Section 67-3512A, Idaho Code; and ()

02. Suspension of New Agreements. The governor issues an executive order directing the Department to suspend the issuance of new incentive agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued. ()

03. Existing Approved Agreements. In the case of suspension all agreements that have been approved by the Council prior to the governor issuing an executive order, as provided in Subsections 026.01 and 026.02 of these rules, shall remain in full force and effect and shall not be modified or impaired as a result of the executive order. ()

04. Support of Existing Agreements. During the period of time that new incentive agreements have been suspended, the Director shall maintain the necessary services required to support all existing agreements and comply with all required reporting and review responsibilities. ()

05. Removal of Suspension. The governor may remove the suspension issued by executive order. ()

221. -- 999. (RESERVED)

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.03.01 - RULES GOVERNING GROUP INSURANCE

DOCKET NO. 38-0301-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, and as specified herein, the pending rule becomes final and of full force and effect on July 1, 2014, after review by the legislature, unless the rule is rejected by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5761, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 6, 2014 Idaho Administrative Bulletin, [Vol. 14-8, pages 141 through 145](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Johnson at (208) 332-1865.

DATED this 17th Day of November, 2014.

Teresa Luna, Director
Department of Administration
650 West State Street, Room 100
P.O. Box 83720-0003
Boise, ID 83720
(208) 332-1824
(208) 334-2307

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5761, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing, to the agency address below.

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

Revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program.

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

Revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program.

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

No fee or charge is being changed or imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact from the rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule change will provide conformity with federal law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No documents are being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Johnson at (208) 332-1865.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 30th day of June, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0301-1401

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.03.01, "Rules Governing Group Insurance." (3-29-10)

02. Scope. Pursuant to Section 67-5761, Idaho Code, these rules set forth eligibility for the state of Idaho's group insurance, ~~and eligibility and procedures for reimbursing a Medicare eligible retiree for his out of pocket expenses for prescription medications when he has exceeded the initial Medicare prescription medication coverage amount.~~ (3-29-10)()

(BREAK IN CONTINUITY OF SECTIONS)

~~**003. ADMINISTRATIVE APPEALS.**~~

~~The provisions found in Section 040 of these rules shall govern administrative appeals of the director's denial to the Group Insurance Advisory Committee.~~ (3-29-10)

~~**004. EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.**~~

~~Pursuant to Section 67-5206(5), Idaho Code, except as provided in these rules, the procedures contained in Subchapter B, "Contested Cases," of the rules promulgated by the attorney general as IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." Sections 100 through 799, do not apply to appeals from denied petitions.~~ (3-29-10)

~~**005. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.**~~

~~To prevent unnecessary delays and increased costs in the determination of whether a Medicare eligible retiree or his Medicare eligible dependent is eligible to receive reimbursement of out of pocket expenses for prescription medications, the rules of procedure in this chapter are adopted to promote the speedy resolution of appeals from denied petitions.~~ (3-29-10)

~~**003. -- 005. (RESERVED)**~~

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS.

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

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

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

04. Eligible Active Employee. An officer or employee of a state agency, department or institution, including a state official, elected official or employee of another governmental entity which has contracted with the state of Idaho for group insurance coverage, who is working twenty (20) hours or more per week, and whose term of

employment is expected to exceed five (5) consecutive months. (3-29-10)

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

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

b. A child up to the age of twenty-six (26) of an eligible active employee or an eligible active employee's spouse, ~~unless the dependent child is eligible to enroll in their own employer-based group coverage.~~ (3-21-12)()

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

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

b. A child up to the age of twenty-six (26) of an eligible retiree or an eligible retiree's spouse, ~~unless the dependent child is eligible to enroll in their own employer-based group coverage.~~ (3-21-12)()

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

a. An officer or employee of a state agency, department or institution, including state and elected officials, who retired on or before June 30, 2009, and who is not Medicare eligible. (3-29-10)

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

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

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

iii. He was hired on or before June 30, 2009, and has at least twenty thousand eight hundred (20,800) credited state service hours on or before June 30, 2009, is reemployed, reelected or reappointed after June 30, 2009, and accrues an additional six thousand two hundred forty (6,240) continuous credited state service hours. (3-21-12)

c. A person receiving benefits from a state of Idaho retirement system who has at least twenty thousand eight hundred (20,800) credited state service hours in a state of Idaho retirement system, and who is not Medicare eligible. (3-21-12)

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

034. -- ~~039.~~ ~~(RESERVED)~~

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

~~Effective January 1, 2010 through December 31, 2013, any Medicare eligible retiree or his Medicare eligible dependent spouse, who is no longer eligible for health care coverage due to Medicare eligibility, may petition the director for reimbursement of prescription medications up to, but not to exceed, two thousand dollars (\$2,000) per calendar year, per Medicare eligible retiree and per Medicare eligible dependent spouse. (3-21-12)~~

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

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

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

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

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

~~a. All reimbursement requests for 2010 out of pocket prescription medication expenses must be received on or before March 31, 2011, and requests for 2011 out of pocket prescription medication expenses must be received on or before March 31, 2012, to be considered. Petitions and reimbursement requests received after March 31, 2011 (for 2010 expenses), and March 31, 2012 (for 2011 expenses), will be denied for being untimely. (3-29-10)~~

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

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

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

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

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

~~iv. Patient name. (3-29-10)~~

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

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

~~05. **Director's Decision of the Petition and Reimbursement Request.** The director shall approve or~~

~~deny the petition and reimbursement request, and shall provide reasons for any denial within ten (10) business days after receipt of the petition or the receipt of requested information or documentation, whichever is later. (3-29-10)~~

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

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

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

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

~~**i.** The individual is not Medicare-eligible. (3-29-10)~~

~~**ii.** The individual has not yet retired from state employment. (3-29-10)~~

~~**iii.** The Medicare-eligible retiree or the Medicare-eligible dependent spouse has not met all of the criteria described in Subsection 040.01 of these rules. (3-29-10)~~

~~**iv.** The appeal is untimely or the original petition was submitted untimely. (3-29-10)~~

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

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

~~**041.—049. (RESERVED)**~~

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective May 20, 2014, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code., Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7, pages 137 and 138](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Any fiscal impact is considered insignificant. The potential number of employees who could fall into the amended rule is few and not all those will make the election provided.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, (208) 287-9271.

DATED this 25th day of July, 2014.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is May 20, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2014.

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

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

PERSI Retirement Rules currently contain 2 provisions addressing “retirement in place” related to members serving on small boards/commissions. Currently Retirement Rule 131 requires only that the member be eligible to retire, without reference to service retirement; Retirement Rule 132 requires that the member be eligible to service retire. The change will bring consistency and additional clarity to the 2 rules by providing that in order to qualify to retire in place, the member must be eligible to retire and be age 62 or over. Use of age 62 is permitted under applicable Internal Revenue Code provision 401(a)(36) for a qualified governmental retirement plan. Also, the rule change will provide clarity for small board and commission employers and employees with regard to retirement in place and will help small boards and commissions retain well qualified members who would otherwise separate/leave the board/commission as that is required so they can begin to receive a retirement allowance.

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

Benefits employers and employees by providing clarity and consistency.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Any fiscal impact is considered insignificant. The potential number of employees who could fall into the amended rule is few and not all those will make the election provided.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the Retirement Board’s exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, 287-9271.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2014.

DATED this 20th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1401

131. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE EMPLOYERS (RULE 131).
An active member separated from employment by one (1) employer for whom he or she did normally work twenty (20) hours or more per week and who is age 62 or older and eligible to retire but remains an elected or appointed official with a different employer, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(3-29-10)~~()

132. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE (RULE 132).
An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who ~~achieves service retirement eligibility~~ is age 62 or older and eligible to retire and who is not an eligible employee with another employer pursuant to Rule 101 of IDAPA 59.01.02, "Eligibility Rules of PERSI," may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(3-29-10)~~()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.02.01 - RULES FOR THE JUDGES' RETIREMENT FUND

DOCKET NO. 59-0201-1401 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2014, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 1-2012, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7, pages 139 through 154](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

These rules include an increased contribution rate for the contributions required by the employer. The increased employer contribution rate will reflect an estimated total net increase of \$2,851,900, of which approximately \$2.0 million is anticipated to be offset by civil filing fees to be redirected from the Judges' Retirement Fund to the General Fund, resulting in an estimated net increase of \$851,900 (2014 HB 636).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, (208) 287-9271.

DATED this 25th day of July, 2014.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is

authorized pursuant to Section 1-2012, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2014.

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

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

These rules apply to the administration of the Judges' Retirement Fund. Effective July 1, 2014, the Judges' Retirement Fund will be administered by the PERSI Board.

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

Administration of the Judges' Retirement System becomes effective July 1, 2014.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

These rules include an increased contribution rate for the contributions required by the employer. The increased employer contribution rate will reflect an estimated total net increase of \$2,851,900, of which approximately \$2.0 million is anticipated to be offset by civil filing fees to be redirected from the Judges' Retirement Fund to the General Fund, resulting in an estimated net increase of \$851,900 (2014 HB 636).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, 287-9271.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2014.

DATED this 20th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0201-1401

IDAPA 59
TITLE 02
CHAPTER 01

59.02.01 - RULES FOR THE JUDGES' RETIREMENT FUND

SUBCHAPTER A -- GENERAL PROVISIONS
Rules 001 Through 099

000. LEGAL AUTHORITY (RULE 0).

The Rules for the Judges' Retirement Fund rules are adopted under the legal authority of Section 1-2012, Idaho Code. ()

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is IDAPA 59.02.01, "Rules for the Judges' Retirement Fund." ()

02. Scope. This chapter relates to retirement under the Judges' Retirement Fund. ()

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).

Written interpretations of these rules, to the extent they exist, are available from PERSI (Public Employee Retirement System of Idaho), at the locations listed in Rule 4 of these rules. ()

003. ADMINISTRATIVE APPEAL (RULE 3).

Administrative appeals are conducted pursuant to IDAPA 59.01.01, "Rules of Administrative Procedure," Rules 101 through 104 and 150 through 789. ()

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 4).

Office hours are 8 a.m. to 5 p.m. Monday through Friday. PERSI's mailing and street addresses, telephone numbers, and fax numbers are as follows:

Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/334-4026

Pocatello Office
1246 Yellowstone Ave, Suite A5
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

Coeur d'Alene Office
2005 Ironwood Parkway, Suite 226
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476 ()

005. PUBLIC RECORDS ACT COMPLIANCE (RULE 5).

All rules required to be adopted by this chapter are public records. ()

006. CITATION (RULE 6).

The official citation of this chapter is IDAPA 59.02.01.000, et seq. For example, this section's citation is IDAPA 59.02.01.006. In documents submitted to the Board or issued by the Board these rules may be cited as Rules for the Judges' Retirement Fund and section number less leading zeros. For example, this rule may be cited as Rules for the Judges' Retirement Fund Rule 7. ()

007. EFFECTIVE DATE (RULE 7).

Unless otherwise indicated in the bracketed material following each rule, the effective date of every rule in this chapter is July 1, 2014. ()

008. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

The following definitions shall apply to this chapter: ()

01. Accrued Benefit. The actuarial value of the retirement benefit to which the Member is entitled under the Judges' Retirement Fund upon attainment of Normal Retirement Age. ()

02. Active Member. Each justice or judge who participates in the Judges' Retirement Fund as provided by Idaho Code. ()

03. Administrator. The Board. ()

04. Annual Additions. Annual additions are the total of all after-tax Member contributions in a year (not including rollovers) and forfeitures allocated to a Member's account under the Judges' Retirement Fund and all other qualified plans to which contributions are made based on the Member's service with the Employer. ()

05. Beneficiary. The designated person (or, if none, the Member's estate) who is entitled to receive benefits under the Plan after the death of a Member. ()

06. Board. The retirement board established in Section 59-1304, Idaho Code. ()

07. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered. ()

08. Compensation. All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Member's gross income for the calendar year but for a compensation reduction election under sections 125, 132(f), 401(k), 403(b), or 457(b) of the Code. ()

09. Contingent Annuitant. The person designated by a Member under certain retirement options to receive payments upon the death of the Member. The person so designated must be born and living on the effective date of retirement. ()

10. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. ()

11. Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Rule 100 of these rules. ()

12. Employer. The common law employer of a Member. ()

13. Includible Compensation. A Member's actual wages in box one (1) of Form W-2 for a year for services to the Employer, but subject to a maximum of two hundred thousand dollars (\$200,000) (or the maximum as may apply under section 401(a)(17) of the Code, if different) and increased (up to the dollar maximum) by any compensation reduction election under sections 125, 132(t), 401(k), 403(b), or 457(b) of the Code. ()

14. Judges' Retirement Fund. The Judges' Retirement Fund established under Title 1, Chapter 20, Idaho Code, and rules applicable to the Judges' Retirement Fund. The Judges' Retirement Fund is intended to satisfy Code section 401(a) as applicable to governmental plans described in Code section 414(d). It is maintained for the exclusive benefit of Members and their beneficiaries. ()

15. Life Expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations. ()

16. Member. An individual who is currently accruing benefits or who has previously accrued benefits under the Plan and who has not received a distribution of his entire benefit under the Plan. ()

17. Normal Retirement Age. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. ()

18. Plan. The plan of benefits under the Judges' Retirement Fund. ()

19. Required Beginning Date. The date specified in Rule 100 of these rules. ()

20. Severance from Employment. The date that the Member dies, retires, or otherwise has a separation from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). ()

011. -- 099. (RESERVED)

**SUBCHAPTER B -- DISTRIBUTIONS
Rules 100 Through 250**

100. TIME AND MANNER OF DISTRIBUTION (RULE 100).

01. Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed to the Member no later than the Member's Required Beginning Date. ()

02. Death of Member Before Distributions Begin. If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows: ()

a. Surviving Spouse is Sole Designated Beneficiary. If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age seventy and one-half (70½), if later. ()

b. Surviving Spouse is Not Sole Designated Beneficiary. If the Member's surviving spouse is not the Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died. ()

c. No Designated Beneficiary. If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death. ()

d. Surviving Spouse Dies Before Distribution. If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving

spouse begin, this Rule 100, other than Rule 100.02.a., will apply as if the surviving spouse were the Member. For purposes of this Subsection 100.02, distributions are considered to begin on the Member's Required Beginning Date (or, if the preceding sentence applies, the date distributions are required to begin to the surviving spouse under this section). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under this section), the date distributions are considered to begin is the date distributions actually commence. ()

e. Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with this Rule 100. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts. ()

03. Determination of Amount to be Distributed Each Year. ()

a. General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements: ()

i. The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year; ()

ii. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Rule 101 or Rule 103 of these rules; ()

iii. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; ()

iv. Payments will either be nonincreasing or increase only as follows: ()

(1) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics; ()

(2) To the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to an approved domestic relations order within the meaning of section 414(p) of the Code; ()

(3) To provide cash refunds of employee contributions upon the Member's death; or ()

(4) To pay increased benefits that result from a Plan amendment. ()

b. Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Rule 100.02 of these rules) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date. ()

c. Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. ()

04. Requirements for Annuity Distributions that Commence During Member's Lifetime. ()

a. Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain. ()

b. Period Certain Annuities. Unless the Member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age seventy (70), the applicable distribution period for the Member is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this section, or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint And Last Survivor Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date. ()

05. Requirements for Minimum Distributions Where Member Dies Before Date Distributions Begin. ()

a. Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in this section, over the life of the designated beneficiary or over a period certain not exceeding: ()

i. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or ()

ii. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date. ()

b. No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest (to the estate of the Member in accordance with the applicable laws of distribution and descent) will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death. ()

c. Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to this section. ()

d. Incidental Death Benefit. The foregoing limitations are designed to assure that any death benefits

are paid in a form that complies with the incidental death benefit requirements of section 401(a)(9)(G) of the Code. ()

101. MAXIMUM LIMITATIONS ON BENEFITS (RULE 101).

01. Maximum Employer-Derived Annual Retirement. Effective January 1, 2002, the employer-derived annual retirement pension payable under the Judges' Retirement Fund shall not exceed one hundred sixty thousand dollars (\$160,000). However, if the Member has not completed ten (10) years of participation, such maximum amount shall be reduced to an amount equal to such maximum amount multiplied by the ratio which the number of years of his participation bears to ten (10). In no event shall the preceding sentence reduce the limitation set forth in the first sentence of this Subsection 101.01 to an amount less than one tenth (1/10) of such limitation (determined without regard to the preceding sentence). If the pension begins before the Member's sixty-second birthday, the maximum amount shall be the actuarial equivalent of one hundred sixty thousand dollars (\$160,000) beginning at age sixty-two (62). For purposes of the preceding sentence, the actuarial equivalent value shall be based on an interest rate equal to the greater of five percent (5%) per year or the interest rate otherwise used under the Plan in the determination of actuarial equivalent value. If the pension begins after the Member's sixty-fifth birthday, the maximum amount shall be the actuarial equivalent value based on an interest rate equal to the lesser of five percent (5%) per year or the interest rate otherwise used under the Plan in the determination of actuarial equivalent value, to that maximum benefit payable at age sixty-five (65). ()

a. The preceding paragraph shall not apply to benefits payable as the result of the recipient becoming disabled by reason of personal injuries or sickness, or benefits payable to a beneficiary, survivors, or the estate of a Member as the result of the death of the Member. This section and Rule 102 of these rules are intended to reflect the limitations of Internal Revenue Code section 415, to the extent applicable to governmental plans. ()

b. As of January 1 of each calendar year on and after January 1, 2002, the dollar limitation in Subsection 101.01 above, with respect to both active and retired Members, shall be adjusted for increases in the cost of living, taking into consideration applicable guidelines. ()

c. For limitation years beginning on or after July 1, 2007, the Plan will make any required adjustments to the dollar limitation in accordance with the final 415 regulations published on April 5, 2007. ()

02. Employer-Derived Annual Retirement Defined. The employer-derived annual retirement pension is the excess, if any, of the total annual retirement pension over the Member-derived annual retirement pension. ()

03. Member-Derived Annual Retirement. The Member-derived annual retirement pension shall be the actuarial equivalent of the Member's contribution under Appendix A. The rate of interest to be used in calculating actuarial equivalence for Plan Years beginning on or before December 31, 2007 shall be Thirty (30) Year Treasury Securities Rate for the month before the date of distribution. For plan years beginning on or after January 1, 2008, the rate of interest to be used in calculating actuarial equivalence shall be the adjusted first, second, and third segment rates applied under rules similar to the rules of Code section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe (the "post-PPA '06 applicable interest rate"). For this purpose, the adjusted first, second, and third segment rates are determined without regard to the twenty-four (24)-month averaging provided under Code section 430(h)(2)(D)(i), and Code section 417(e)(3)(D)(ii) provides a transition rule that phases in the use of the segment rates over five (5) years. The mortality rate to be used for plan years beginning on or before December 31, 2007 shall be based on the prevailing commissioners' standard table used to determine reserves for group annuity contracts issued on the date as of which present value is being determined. For plan years beginning on or after January 1, 2008, the mortality rate shall be based on a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under subparagraph (A) of Code section 430(h)(3) (without regard to subparagraph (C) or (D) of such section) (the "post-PPA '06 applicable mortality table"). ()

04. Benefits Accrued as of December 31, 1982. Notwithstanding the preceding paragraph of this Section 101, in no event shall a Member's annual pension payable under the Plan be less than the benefit which the Member had accrued under the Plan as of December 31, 1982; provided, however, that in determining such benefit no changes in the Plan on or after July 1, 1982 shall be taken into account. ()

102. MAXIMUM LIMITATION ON ANNUAL ADDITIONS (RULE 102).

01. Annual Additions Limitation. Effective January 1, 2002, annual additions shall not exceed the lesser of: ()

a. Forty thousand dollars (\$40,000); or ()

b. One hundred percent (100%) of the Member's compensation. ()

02. Annual Adjustments. As of January 1 of each calendar year on and after January 1, 2002, the dollar limitation in Subsection 102.01 of these rules, with respect to both active and retired members, shall be adjusted for increases in the cost of living, taking into consideration applicable guidelines. ()

03. Other Qualified Plans. To the extent that any Member of the Judges Retirement Plan is also a member of any other qualified plan, and annual additions to all plans covering the Member would otherwise exceed the limits set forth above, annual additions to such other qualified plan shall be reduced to the extent necessary to avoid exceeding the limitations on annual additions. ()

103. ROLLOVER DISTRIBUTIONS (RULE 103).

01. Direct Rollovers. A Member of the Judges' Retirement Fund or a beneficiary of a Member (including a Member's former spouse who is the alternate payee under an approved domestic relations order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover. Effective January 1, 2006, in the event of a mandatory distribution greater than one thousand dollars (\$1,000), if the Member does not elect to have such distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover or to receive the distribution directly, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. ()

02. Eligible Rollover Distribution Defined. For purposes of this Rule, an eligible rollover distribution means any distribution of all or any portion of a Member's account balance, except that an eligible rollover distribution does not include (a) any installment payment for a period of ten (10) years or more, (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in section 408A of the Code. ()

104. -- 251. (RESERVED)

SUBCHAPTER C -- ASSUMPTIONS
Rules 251 Through 299

251. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED (RULE 251).

Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in a manner that precludes employer discretion. ()

252. ACTUARIAL TABLES (RULE 252).

The actuarial tables used for determining optional retirement benefits are set forth in Appendix A, which is hereby incorporated by reference and made a part hereof. ()

253. -- 299. (RESERVED)

SUBCHAPTER D -- CONTRIBUTION RATES
Rule 300 Through 349

300. EMPLOYER CONTRIBUTION RATE (RULE 300).

The employer contribution rate shall be fifty-five point twenty-eight percent (55.28%) of salaries until next determined by the Board. ()

301. EMPLOYEE CONTRIBUTION RATE (RULE 301).

The employee contribution rate shall be ten point twenty-three percent (10.23%) of salary until next determined by the Board. ()

302. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS (RULE 302).

Compensation paid for vacation is salary subject to employee and employer contributions. ()

303. REPORTS (RULE 303).

The Employer shall provide to the Board such reports, including compensation and contribution reports, as are required by the Board to verify contributions benefits required or provided and unless extended in writing by the executive director such reports shall be provided no later than five (5) business days after each pay date. ()

304. -- 349. (RESERVED)

SUBCHAPTER E -- DISABILITY RETIREMENT
Rules 350 Through 399

350. APPLYING FOR DISABILITY RETIREMENT (RULE 350).

Eligible members may apply for disability retirement, as provided for in Section 1-2001(4)(a), Idaho Code, by completing a required form available from any PERSI office. The application process may include an interview by a Board representative. Applicants must release all medical records and information to the Board or its agent. ()

351. INITIAL APPLICATION REVIEW (RULE 351).

Applications will first be reviewed to determine whether the applicant meets applicable eligibility requirements. If eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. ()

352. DISABILITY ASSESSMENT REVIEW (RULE 352).

An applicant will be assessed to determine whether he qualifies for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by the Board. Failure to timely comply with any request made by the Board during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, the Board will notify the applicant in writing whether or not he qualifies for disability retirement. ()

353. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION (RULE 353).

Applicants, who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

354. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION (RULE 354).

A reconsideration decision shall be considered a final decision, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available during the assessment or reconsideration process, the

applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. ()

355. DELEGATION (RULE 355).

The Board may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "Board" includes those third parties. Where such delegation has been made, the term "Board" includes those third parties. ()

356. REASSESSMENT OF DISABILITY RETIREES (RULE 356).

A disability retiree is subject to reassessment of his disability at any time to determine whether he continues to be disabled under the standard in Section 1-2001(4)(a), Idaho Code. However, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. A disability retiree notified that he has been selected for reassessment is under the same obligation as applicants to supply information. ()

357. BURDEN ON APPLICANT (RULE 357).

Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. ()

358. STATUTORY STANDARD (RULE 358).

In applying the disability standard in Section 1-2001(4)(a), Idaho Code, the applicant is prevented from further performance of the duties of his office if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of his office. ()

359. ATTORNEY'S FEES AND COSTS (RULE 359).

Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by the Board except for fees related to judicial review for which applicant is found to be entitled under applicable law. ()

360. -- 399. (RESERVED)

**SUBCHAPTER F - MISCELLANEOUS PROVISIONS
Rules 400 Through 999**

400. ADMINISTRATIVE PROCEDURE -- CROSS REFERENCE (RULE 400).

See IDAPA 59.01.01, "Rules of Administrative Procedure of PERSI," concerning rules for administrative procedure. ()

401. POST RETIREMENT ALLOWANCE ADJUSTMENTS (RULE 401).

01. Adjustments Under Section 59-1355, Idaho Code. For those retirees whose post retirement allowance adjustment is to be determined in accordance with Section 59-1355, Idaho Code, the Board shall annually consider the post retirement cost of living adjustment (COLA) pursuant to Section 59-1355, Idaho Code. The Board has the discretion afforded under Section 59-1355, Idaho Code, related to a discretionary and/or retro-active COLA. The Board shall annually consider the COLA no later than the December Board meeting of each year with an effective date of July 1 of the next year. ()

02. Adjustments Under Section 1-2001(2)(a)(ii). For those retirees whose COLA is to be determined in accordance with Section 1-2001(2)(a)(ii), Idaho Code, the COLA, if any, shall have an effective date of July 1 of the applicable year. ()

402. APPROVED DOMESTIC RETIREMENT ORDERS (RULE 402).

As permitted under Code section 414(p)(11), the Plan shall recognize and give effect to domestic retirement orders

that have been approved in accordance with Plan procedures. An order shall be approved only if it substantially meets the requirements for a qualified domestic relations order under Code section 414(p), except for subsection (9) thereof, as determined by the Administrator or its agent. Amounts segregated for the accounts of alternate payees pursuant to a Plan approved domestic retirement order shall be available for immediate distribution to the alternate payee. Distributions pursuant to a domestic retirement order to an alternate payee who is a spouse or former spouse of the Member shall be taxable to the alternate payee rather than the Member to the extent permitted under Code Section 414(p)(12). Distributions pursuant to a qualified domestic relations order to an alternate payee who is not a spouse or former spouse of the Member shall be taxable to the Member. ()

403. RETIREMENT APPLICATION AND SPOUSAL CONSENT (RULE 403).

A member is required to complete and submit a retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying he understands and consents to the election made by the member. The spouse's signature must be notarized. If an inactive member reaches service retirement age, or an active member who has reached service retirement age separates from service, and has failed to complete and submit an approved retirement application and select either a regular or optional retirement allowance within ninety (90) days thereafter, the member shall be deemed to have selected a regular retirement allowance and no other selection shall be required or permitted. ()

404. FORFEITURES (RULE 404).

Forfeitures will not be applied to increase the benefits any member would otherwise receive. ()

405. PRE-ERISA VESTING (RULE 405).

Upon any termination of the Plan or upon any complete discontinuance of contributions under the Plan, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall become one hundred percent (100%) vested. ()

406. -- 999. (RESERVED)

