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**IDAPA 18
TITLE 01
CHAPTER 27**

18.01.27 – SELF-FUNDED HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.27, “Self-Funded Health Care Plans Rule.” (3-25-16)

02. Scope. The purpose of this rule is to supplement the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans by providing: (4-5-00)

- a.** Dates of application for registration; (4-5-00)
- b.** Requirements for application for registration; (4-5-00)
- c.** Rules regarding investigation of applications; (4-5-00)
- d.** Definition of terms, required liabilities; and establishment of reserve bases; (3-25-16)
- e.** Requirements for contribution rates, contracts and services, and records; and (3-25-16)
- f.** An effective date. (3-25-16)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (3-30-07)

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” Sections 101 through 400. (3-30-07)

004. INCORPORATION BY REFERENCE.

There are no documents to be incorporated by reference. (3-30-07)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (3-30-07)

02. Mailing Address. The department’s mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (3-30-07)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (3-30-07)

04. Web Site Address. The department’s website is <http://www.doi.idaho.gov>. (3-30-07)

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-30-07)

007. -- 009. (RESERVED)

010. DEFINITIONS.

All terms defined in Title 41, Chapter 40, Idaho Code, that are used in this rule shall have the same meaning as used in that Chapter. (3-25-16)

01. "All Contributions To Be Paid In Advance". As used in Title 41, Chapter 40, Idaho Code, means all contributions are to be paid in advance of the period of time for which the contribution is made. (3-25-16)

02. "Deposited In And Disbursed From A Trust Fund". As used in Title 41, Chapter 40, Idaho Code, means all contributions based on calculated rates in accordance with Section 028 of this rule shall be deposited into the trust fund and all expenses shall be paid out of the trust fund. (3-25-16)

011. -- 020. (RESERVED)

021. QUALIFICATION OF PLAN.

In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust must be established by agreement between the employer or employers or a postsecondary education institution and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers or to students of the postsecondary educational institution. (3-25-16)

022. REGISTRATION.

01. Registration Required. No self-funded plan, unless exempted from registration by Section 41-4003(2), Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a Certificate of Registration from the Director of insurance. (4-5-00)

02. Specific Plans. Any plans covering the employees of a common employer shall be deemed to be a single plan in respect to the exemption for registration allowed in Section 41-4003(2)(a), Idaho Code. Any combinations of plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section 41-4003(2)(a), Idaho Code in order to avoid registration of any such plans is deemed to be contrary to the intent of Chapter 40, Title 41, Idaho Code, and is expressly prohibited by this rule. (4-5-00)

03. Beneficiary Within State. Registration is required of Plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4003(2), Idaho Code. (3-30-07)

023. (RESERVED)

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The Director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4013, Idaho Code. Costs of any investigation and/or examination shall be borne by the trust fund of the plan. (4-5-00)

025. CONTRIBUTIONS RECEIVABLE.

The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (7-1-93)

026. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan must continuously maintain reserves sufficient, as certified by a qualified actuary as being necessary, to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported,

extended benefits and maternity benefits, if any. (3-25-16)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the Director unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. (3-30-07)

03. Certification by Actuary. Reserves must be certified annually by a qualified actuary. Such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the Director. (3-25-16)

04. Insolvent Condition. If determination of surplus reveals a deficiency in surplus, the Director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required surplus. The plan shall be deemed to be insolvent when the plan is either unable to pay its obligations when they are due or its assets do not exceed all its liabilities, including required reserves. (3-25-16)

027. BONDING.

01. Certified Copy of Bond. A certified copy of the fidelity bond or equivalent coverage, as required under Section 41-4014(3), Idaho Code, shall be furnished to the Director by the plan. (3-30-07)

02. Scope of Coverage. The fidelity bond or equivalent coverage shall cover every trustee, officer, director, and employee of the plan. (3-25-16)

03. Cancellation of Bond Requirements. The fidelity bond or equivalent coverage must contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. A copy of any notice cancelling a bond required under Chapter 40, Title 41, Idaho Code, is to be forwarded to the Director by the surety at the same time it is forwarded to the trustee. (3-25-16)

04. Third Party Administrator. Any party that provides any one of the following services to the plan must be licensed as a third party administrator in accordance with Title 41, Chapter 9, Idaho Code, and Section 41-4014(4), Idaho Code: (3-25-16)

- a. Directly or indirectly underwrites; (3-25-16)
- b. Collects or handles charges or contributions; or (3-25-16)
- c. Adjusts or settles claims on members or beneficiaries of the plan. (3-25-16)

028. CONTRIBUTION RATES.

01. Contribution Rate Calculation. Contribution rates shall be calculated at least annually by a qualified actuary. The contribution rate calculations should be broken down and designated as the rate for the employer and the rate per employee, or the rate for the postsecondary educational institution and the rate per student. (3-25-16)

02. Employer Contributions. Employer contributions shall be based on filed rates, paid in advance on a periodic basis during the period of coverage or at the beginning of the period of coverage. (3-25-16)

03. Annual Filing of Rates. The required annual filing of rates with the Director shall include the breakdown as required under Subsection 028.01. (3-25-16)

029. CONTRACTS AND SERVICES.

01. Affiliated Contracts. All contracts for goods or services provided to the plan by any plan sponsor, employer, third party administrator, or other affiliated entity or employee or agent thereof, shall be in writing, setting forth in detail the rights and duties of each party to the writing; regardless of whether compensation, fees, or other

consideration is paid or exchanged directly or indirectly. (3-25-16)

02. Contracts for Services. All contracts for services including, but not limited to, accounting services, legal services, custodial agreements, and agreements for lease, rent, or insurance coverage to be performed or entered into on behalf of the plan shall be directly with the plan as agreed to by the board of trustees and the other party. (3-25-16)

03. Recordkeeping and Writing. Contracts and agreements valued at greater than five hundred dollars (\$500.00) entered into by the plan, shall be in writing and shall be approved by resolution of the board of trustees, and placed in the minutes and records of the plan. (3-25-16)

04. Fiduciary Duty. By entering into contracts and agreements, the trustees are not permitted to transfer or otherwise avoid their statutory fiduciary responsibilities. (3-25-16)

030. RECORDS.

01. Board Actions. Any and all acts, resolutions, appointments, or delegations, or other decisions of the board of trustees shall be in writing and placed in the minutes and records of the plan. (3-25-16)

02. Complete Records. The full and accurate records and accounts of the plan include, but are not limited to, minutes of the meetings of the board of trustees that document the acts, resolutions, appointments or delegations of the trustees; any and all correspondence between the board of trustees and contractors; accounting and actuarial records; and any and all records, correspondence, minutes, or statements as required by law or the trust agreement. (3-25-16)

031. ANNUAL STATEMENT.

The trustee shall file an annual statement within ninety (90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement shall be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-30-07)

032. SEVERABILITY CLAUSE.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. (7-1-93)

033. -- 999. (RESERVED)

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