

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.02.05 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- INDUSTRIAL COMMISSION

DOCKET NO. 17-0205-1001

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2010.

**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, 72-720, 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 July 21, 2010.

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:

To coincide with statute changes enacted by the 2010 legislature in Section 72-528, Idaho Code, to reduce the redundancy of reporting information to the Industrial Commission of costs and fees associated with attorneys hired by injured workers. The attorney's costs and fees are already required on all proposed lump sum settlements and on the accompanying Attorney Fee Memorandum. Forms 1022 and 1023 sent out by the Commission require identical information.

**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:

To conform to the language changes to Section 72-528, Idaho Code, approved by the 2010 legislature that become effective July 1, 2010.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**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: No fiscal impact with these changes.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are not controversial.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Scott McDougall, 208-334-6063.

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 28, 2010.

DATED this 17th day of May 2010.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
P.O. Box 83720

Boise, ID 83720-0041  
Phone: 208-334-6059  
Fax: 208-334-5145

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 17-0205-1001**

**281. RULE GOVERNING REPORTING OF ATTORNEY FEES.**

**01. Requirements for Reporting by Employer/Surety Attorney.** When requested by the Commission, the following information shall be reported to the Commission, on a form furnished by the Commission (see IC Form 1023 below) by all sureties, self-insurers, the State Insurance Fund, the Industrial Special Indemnity Fund, and non-insured employers, relative to each case litigated before the Industrial Commission within thirty (30) days of the request of the Commission, following the entry of a final award by the Industrial Commission, or, in the event of an appeal to a higher court, not later than thirty (30) days following a final ruling by the court. The information reported shall break down the litigation expenses incurred in each case by the reporting party into the following categories, and, if the case is appealed, shall include such costs incurred on appeal: ~~(7-15-88)~~(7-1-10)T

- a. All fees paid to attorneys; (7-15-88)
- b. All expenses charged by attorneys; (7-15-88)
- c. Charges for reports or testimony of witnesses; (7-15-88)
- d. Cost of any depositions taken; (7-15-88)
- e. Cost for investigation made before or during hearing; (7-15-88)
- f. Costs of research or legal briefs (if separate from attorney fees). (7-15-88)

IC Form 1023:

INDUSTRIAL COMMISSION, P.O. BOX 83720, BOISE, ID 83720-0041

I.C. CASE NO. \_\_\_\_\_

I.C. CASE NAME \_\_\_\_\_

**REPORT OF LITIGATION EXPENSES  
(EMPLOYER/SURETY/ISIF/SELF INSURERS)**

In accordance with the requirements of Section 72-528, Idaho Code, this form shall be filled out and returned to the Industrial Commission within thirty (30) days of the request by the Commission, following the time of entry of a final award by the Industrial Commission in the above case, or, in the event of an appeal to a final court, within 30 days following a final ruling by the court. If there is an appeal, the totals specified below shall include the expenses, costs, or fees incurred in the appeal.

- 1. Attorneys fees paid in case:
- 2. Expenses charged by attorneys:
- 3. Charges for reports or testimony of witnesses:
- 4. Cost of any depositions taken:
- 5. Cost of investigations made before or during hearing:

- 6. Costs of research or legal briefs (if separate from attorneys fees):
- 7. Filing fees paid on account of the litigation

TOTAL

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
FIRM NAME \_\_\_\_\_  
BY \_\_\_\_\_

Check Applicable Box:  
 Self Insured  Uninsured Employer  Surety  
 State Insurance Fund  Industrial Special Indemnity Fund

Receipt of this form from the Commission shall be deemed a request for the information.

Sample copies of IC Form 1023 are available from the Industrial Commission, Judicial Division or Compensation Consultants, ~~317 Main Street~~, P. O. Box 83720 Boise, Idaho 83720-0041, telephone (208) 334-6000.

**02. Information to Be Reported by Claimant Attorney.** When requested, ~~the~~ following information shall be reported to the Commission, on a form furnished by the Commission (see IC Form 1022 below) by all attorneys engaged in representing any claimant in a litigated workers' compensation insurance claim before the Commission, relative to each case litigated, within thirty (30) days of request of the Commission following the entry of a final award by the Industrial Commission, or in the event of an appeal to a higher court, not later than thirty (30) days following a final decision by the court. The information reported shall break down into the following categories the litigation expenses incurred in each case, and, if the case is appealed, shall include such expenses or costs incurred on appeal: (~~7-15-88~~)(7-1-10)T

- a. Attorneys fees incurred in litigation and charged to claimant; (7-15-88)
- b. Expenses incurred in litigation and charged to claimant. (7-15-88)

IC Form 1022:

INDUSTRIAL COMMISSION, P. O. BOX 83720, BOISE, ID 83720-0041

I.C. CASE NO. \_\_\_\_\_

I.C. CASE NAME \_\_\_\_\_

**REPORT OF LITIGATION EXPENSES (CLAIMANT'S ATTORNEY)**

In accordance with the requirements of Section 72-528, Idaho Code, this form shall be filled out and returned to the Industrial Commission within thirty (30) days of request of the Commission following the time of entry of a final award by the Industrial Commission in the above case, or, in the event of an appeal to a final court, within thirty (30) days following a final ruling by the court. If there is an appeal, the totals specified below shall include the expenses, costs, or fees incurred in the appeal.

- 1. Attorneys fees incurred in litigation and charged to claimant:
- 2. Expenses incurred in litigation and charged to claimant:

TOTAL

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
FIRM NAME \_\_\_\_\_  
BY \_\_\_\_\_

Receipt of this form from the Commission shall be deemed a request for the information.

Sample copies of IC Form 1022 are available from Industrial Commission, ~~317 Main Street~~, P.O. Box 83720 Boise, Idaho 83720-0041, telephone (208) 334-6000.

**03. Definition of Litigated Case.** For purposes of Section 72-528, Idaho Code, and this rule, a “case litigated before the Industrial Commission” shall mean a case in which a Complaint (formerly an application for hearing) has been filed. (7-15-88)

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