

RULE 20.

CHANGE OF PHYSICIAN

A. Legal Authority.

Rule 20 was established and adopted by the Commission pursuant to Idaho Code § 72-432(4).

B. Definitions.

1. The terms "petition," "written notice," "employee's request," and "claimant's request" as used in Idaho Code § 72-432(4) have the same meaning and shall refer to the Petition for Change of Physician (Petition) as described herein.
2. The terms "written decision" and "response" as used in Idaho Code § 72-432(4) have the same meaning and shall refer to the Response to Petition for Change of Physician (Response) as described herein.
3. The term "employee" shall refer to an employee or an authorized representative thereof.
4. The term "employer" shall refer to the employer, surety, or authorized representative thereof.

C. Filing and Service.

1. Any documents required by this rule to be filed and/or served on a party and/or the Commission shall be so filed or served by mail, by fax machine, or by personal delivery. Such documents shall be sent to the last known address of the person receiving the document.
2. Proof of service shall be accomplished by a certificate of service from the serving party indicating the type of document served, the method of service, name and address of the person receiving service, and the date the document was either mailed, transmitted by fax, or personally delivered.
3. Service by mail shall be presumed to be accomplished 3 days after the date of mailing, unless otherwise shown by the receiving party.

D. Attorney Representation.

For purposes of this rule, the provisions of Rule 2, J.R.P., requiring representation by an attorney shall not apply.

E. Petition.

In order to request a change of physician within the meaning of Idaho Code § 72-432(4), the employee must serve a petition on the employer or surety. The petition may be served at any time, regardless of whether a complaint has been filed pursuant to Rule 3.A., J.R.P. If a complaint and answer have been filed and the employer/surety is represented by an attorney, the petition shall be served on said attorney. A copy of the petition shall be provided to the Commission. The petition shall be in writing and submitted in a format substantially similar to the form provided in Appendix 8A.

1. The petition shall be signed by the employee and shall contain the following information:
 - a. Name and address of the employee;
 - b. Name and address of the employer;
 - c. Name and address of surety (if known);
 - d. Name and address of current physician;
 - e. Name and address of physician to whom change is being requested;
 - f. General information (including date, place, and circumstances of injury/disease);
 - g. Summary statement of the medical treatment received to date;
 - h. Reason change of physician is requested; and
 - i. Dates available for hearing within the next 30 days.
2. The employee may attach to the petition legible and accurate copies of any documentation supporting the request for change of physician. Whether such documents are accepted into evidence is solely within the discretion of the Commission.

F. Response.

The employer shall respond to the petition within 14 days from the date of service thereof. The response shall be in writing and be submitted in a format substantially similar to the form provided in Appendix 8B.

1. The response shall be signed by the employer and shall contain the following information:

- a. Name and address of the employer;
 - b. Name and address of the surety;
 - c. Name and address of the employee;
 - d. Statement approving or denying the Petition;
 - e. If denied, a statement of the reasons for the denial; and
 - f. If denied, dates available for hearing within the next 14 days.
2. The employer may attach to the response legible and accurate copies of any documentation supporting the response. Whether such documents are accepted into evidence is solely within the discretion of the Commission.
 3. If the petition is approved by the employer, the employer shall render and provide its response to the Commission. A copy of the response shall be served on the employee. The parties shall act in accordance with such approval without further action by the Commission.
 4. If a copy of the petition has been filed with the Commission and is denied by the employer, the employer shall file its response with the Commission. A copy of the response shall be served on the employee. On receipt of the response, the Commission shall deem the petition filed and the matter in dispute.
 5. Default. If the employer does not respond within 14 days from the date the petition was received and the employee desires a default order, the employee shall file a written statement that there has been no response to the Petition and attach a copy of the certificate of service of the petition. On receipt of these documents, the Commission shall issue an order granting the petition. A copy of the order shall be served by the Commission on the parties.

G. Expedited Hearing.

Within 14 days from the filing of the response denying the petition, the Commission shall conduct an expedited hearing to determine whether or not the petition should be granted.

1. Presiding Officer. The hearing shall be conducted by a Referee or one or more of the Commissioners.
2. Hearing. The hearing shall be conducted in person or by telephone conference, at the convenience of the Commission. If conducted by telephone conference, the call shall be initiated by the presiding officer.

3. Notice. Notice of the presiding officer(s) method, time, and place of the hearing shall be given to the parties as soon as practicable.
4. Evidence. Exhibits, affidavits, depositions, and other documentation offered into evidence must be submitted to the Commission, and copies served on the opposing party, at least 48 hours prior to the hearing. The parties shall be afforded the opportunity to present witnesses.
5. Extensions. The time limits described herein shall not be extended.
6. Waiver. The expedited hearing may be waived on stipulation of the parties. In that event, the decision of the Commission will be based on the written information provided to the Commission prior to the scheduled hearing.

H. Decision.

The Commission shall issue a decision following the hearing, or waiver thereof, but in no event more than 14 days after the filing of the response.

1. Basis. The employee bears the burden of establishing reasonable grounds to grant the petition. Reasonable grounds shall be determined from the pertinent facts and circumstances presented by the parties, and is a factual determination solely within the discretion of the Commission.
2. Appeals. The decision shall not be subject to review or appeal until all issues in the case have been determined by the Commission.

I. Alternative Procedure.

The above procedure shall not be deemed exclusive. An employee may pursue a change of physician through the application for hearing process described in Idaho Code § 72-706.