

**Industrial Commission’s Advisory Committee
On Workers’ Compensation
Minutes
May 11, 2022**

Members Present

Dave Anderson
James Arnold
Brad Cederblom
Dr. Paul Collins
Richard Burleigh
Joe Maloney
Darin Monroe
Shellie Martin
Mike Shuey
Brad Stoddard
Andrew Marcham

Members Absent

Dane Higdem
Craig Mello
Matt Pappas
Ex-Officio: Representative Scott Syme
Ex-Officio: Senator Jim Patrick
Brian Whitlock, Chairman

Industrial Commission

Aaron White, Chairman
Thomas E. Limbaugh, Commissioner
Thomas P. Baskin, Commissioner
George Gutierrez, Director
Kamerron Slay, Commission Secretary

Opening Remarks and Introductions:

Jamie Arnold led the meeting and opened the meeting at 9:02 a.m. Mr. Arnold reminded attendees to sign in. Mr. Arnold next requested introductions of Committee members and public attendees.

Minutes of February 23, 2022:

The minutes of the February 23, 2022 meeting were presented for review and approval. Upon motion of Andrew Marcham, seconded by Dave Anderson, the minutes of February 23, 2022 were approved. The minutes were adopted by unanimous vote.

Industrial Commission Report:

IRIS Update. Annie Hoffman presented an update to the Committee on the IRIS modernization project. Ms. Hoffman indicated they anticipated a go-live date by July for the Employer Compliance section. Ms. Hoffman asked if there were any questions, there were none.

2023 Legislation. Commissioner Limbaugh updated the Committee on the 2022 legislative session. The Commission made necessary changes to IDAPA 17.01.01 for EDI 3.1 implementation. The Commission didn’t go forth with the medical report changes.

Commissioner Limbaugh indicated that currently the Commission only intent to go forth with changes to IDAPA 17.11.01- Peace Officer and Detention Officer Disability Fund in accordance with the Zero-Based Regulation Act for the 2023 legislative session. Commissioner Limbaugh stated the intention was to reduce repetitive or redundant language within the chapter. The Commission will conduct negotiated rulemaking on June 2nd. Commissioner Limbaugh asked if there were any questions, there were none.

HB590 Implementation. Commissioner Baskin summarize the Commission's implementation of HB590. The Commission plans to implement the change on July 1st to align with HB590. Commissioner Baskin summarized the process for settlement agreements (SA) and the changes to JRP 18. Commissioner Baskin asked for questions and comments.

Dr. Collins inquired about requirements to be deemed filed. Commissioner Baskin stated it would be deemed filed when all the required documents had been received. Jamie Arnold had questions about deeming it filed only after all the requirements had been received. Commissioner Baskin asked about other options to insure all the documents that were required by statute were submitted. Commissioner Baskin indicated the Commission was open to comments if it became unfeasible.

Darin Monroe had concerns about how the Social Security Administration could view attorney fees in SA. Commissioner Baskin explained attorney fees would differ from the SA. Mr. Monroe proposed some offset language in the SA.

Public Comment: Daniel Luker expressed support of Mr. Monroe's suggestion and for offset language for long term disability. Commissioner Baskin stated it was a good suggestion and they would take it into consideration.

Mr. Stoddard inquired which party would be drafting the Order to Dismiss. Mr. Arnold and Mr. Monroe inquired about the Commission's approval of the Order, not for best interest, but for issues like offset language or attorney fees. Commissioner Baskin opined that the parties should prepare the Order to Dismiss to include whatever they language they felt was necessary.

Public Comment: Mark Peterson inquired why a settlement would not be considered filed if a charging lien is not included as they are two different documents in statute. Commissioner Baskin explained the thought process behind the request and the statutory requirement. The Commission is amendable to changing the requirements if impracticable.

Public Comment: Mr. Eidam opined that separating the Charging Lien and Attorney Fee Memo from the SA would be preferable to not hold up the SA.

Public Comment: Mr. Peterson expressed support for Mr. Eidam's suggestion.

Commissioner Baskin acknowledged the preference to put distance between the SA and other documents to expedite filing. Commissioner Baskin expressed concern that by not filing together more problems would arise and proposed it would be more efficient to file the documents

together based on the statutory timeline. Mr. Arnold indicated that if there is an issue with attorney fees, claimant's counsel could hold the money in trust to ensure the SA was processed in a timely manner. Shellie Martin expressed concern about having documents filed separately as upon filing the surety would assume the SA is complete and issue the check due to the statutory deadline to submit payment to claimants.

Public Comment: Mr. Luker asked if there was a time limit to how long a SA is open. As written, there is 7 days to deem the SA approved but not a time limit to ensure all the required documents have been received. Commissioner Baskin indicated the Commission wrestled with this dilemma and considered other solutions but found the most efficient way would be to have all the requirement document submitted to be deemed filed. Commissioner Baskin indicated the Commission would reach out if there were missing documents, or parties would receive a signed Order if filed successfully.

Public Comment: Chris Wagner asked if the clock starts for sureties to issue payment on the date the SA is submitted or the date of SA approval. Commissioner Baskin indicated it depends on the terms reached by the parties in the SA or Order. Commissioner Baskin indicated generally 30 days from the date of the Order.

Public Comment: Mr. Wagner inquired about EDI reporting under the new process. Richelle Flores summarized the EDI reporting requirements. Ms. Flores indicated if there were additional questions she could be reached after the meeting.

Commissioner Baskin asked for feedback on the paid and disputed ledger. Ms. Martin indicated it would be simple to obtain the paid medicals, but disputed medical would be hard to obtain for a surety. Mr. Arnold indicated that if a claimant's injury was denied by the surety, they may incur medicals that surety may not be aware of. Mr. Monroe indicated that they may negotiate with providers on some medicals and the itemization of all the charges was too much. Commissioner Baskin indicated the statute required a detailed ledger. Senator Patrick opined on the definition of detailed ledger and indicated it might be an area of concern. There was a lengthy discussion among the group as to the definition of "detailed" ledger and subrogated interest. Commissioner Baskin opined that the parties would control what would go into the ledger. Commissioner Baskin indicated the Commission would investigate the issue further.

Public Comment: Mr. Eidam discussed the requirement of a charging lien in the current IDAPA and a temporary rule to remove the "charging lien" definition.

Public Comment: Lene O'Dell inquired about the internal process for SA. Commissioner Baskin indicated that email filing should go to Benefits, then the Commissioners. Mr. Monroe asked if there would be email confirmation for filing received or to wait for the Order. Commissioner Baskin indicated an Analyst would reach out if there were problems, but the Commission would need to investigate if email confirmation was possible further before giving a definitive answer.

Public Comment: Kim Murphy that ISIF would still requiring proof of liability under the new process and wouldn't be reverting to pre-*Wernicke* days.

Commissioner Baskin stated the Commission wanted to implement the intention of HB590 efficiently and the Commission valued the feedback received. Commissioner Baskin thanked everyone for their comments. Richard Burleigh inquired what the next steps were. Commissioner Baskin indicated they would accept additional comments through May 20th and present the finished work product at the Annual Seminar on May 26th.

EDI 3.1 Update. Patti Vaughn gave an update to the Committee on EDI 3.1. Ms. Vaughn announced the EDI 3.1 implementation date would be December 1, 2022. Ms. Vaughn indicated testing would begin June 30th and encouraged early testing to flush out issues. Ms. Vaughn indicated the update would include a new policy verification tool. The EDI 3.1 tables were available on the website for review.

Public Comment: Chris Wagner asked if legacy claims would need to be converted to EDI 3.1. Ms. Vaughn indicated they would. Mr. Wagner indicated they had a claim for the 1970's that still open for medicals. Ms. Flores indicated they wouldn't need to convert legacy claims for medical only claims, just indemnity benefits

Ms. Vaughn asked if there were any additional questions, there were none.

Changes to Proof of Coverage Tables. Dori Ritchie provided an update to the Commission on the changes to the Proof of Coverage Tables. Ms. Ritchie indicated that an email address would be required for proof of coverage by NCCI starting July 1st. Ms. Ritchie indicated there would be a Q&A session later in the year; the date will be posted on the website.

Other Issues/Announcements:

Annual Seminar on Workers' Compensation. Ms. Slay informed the Committee the Annual Seminar would be taking place on May 26, 2022 at the Boise Centre.

Preparation for Future Meetings:

August Elections. Advisory Committee Elections would be held at the August meeting. Ms. Slay indicated the following members were up for election: Dave Anderson, Darin Monroe, Bradley Stoddard, and Dr. Paul Collins.

Next Meeting Date: August 10, 2022

Darin Monroe moved to end the meeting, seconded by Shellie Martin. The motion carried by unanimous vote. There being no further discussion and no further business, the meeting adjourned.