

## **RULE 22.**

### **IDAHO CODE § 72-433 EXAMS AND MOTIONS FOR RELIEF UNDER IDAHO CODE §§ 72-434 AND 72-435**

#### **A. Notice of Idaho Code § 72-433 Exam.**

Employer shall provide at least fourteen (14) days written notice to a pro se claimant or claimant's attorney of an Idaho Code § 72-433 exam. The notice shall substantially comply with the sample notice attached as appendix 8 hereto.

#### **B. Motions for Relief.**

An employer who seeks relief pursuant to the provisions of Idaho Code §§ 72-434 or 72-435 shall obtain the prior approval of the Commission using the procedure set forth below:

#### **C. Procedure.**

1. a. Before or after an Idaho Code § 72-433 exam, an employer may make application to the Commission for relief under Idaho Code § 72-434 in the form of a motion and supporting memorandum, and any other supporting documents. Such motion may be filed at any time, regardless of whether a complaint has been filed.
- b. An employer seeking relief under Idaho Code § 72-435 may make application to the Commission in the form of a motion and supporting memorandum, and any other supporting documents. Such motion may be filed at any time, regardless of whether a complaint has been filed.
2. Claimant may file a responsive memorandum along with any supporting documents within ten (10) days after the filing of employer's motion. If no response is filed, the matter will be deemed submitted to the Commission and the Commission will issue a decision on the application without a hearing. Such decision shall issue no later than twenty (20) days following the filing of employer's application.
3. Employer may reply within ten (10) days after the filing of claimant's response. If Employer does not intend to submit a reply, it shall notify the Commission.
4. Filing and service of the aforementioned pleadings shall be accomplished as set forth in JRP 4 A.
5. A hearing may be waived by stipulation of the parties, in which case the Commission's decision shall be based on the written submissions of the parties. Otherwise, the Commission shall hold an expedited hearing on the motion within fourteen (14) days after the filing of employer's reply or notification that no reply will be filed, or at such other time as the parties may agree to and the Commission

may approve. The hearing may be conducted remotely or in person, at the discretion of the Commission. Notice of hearing shall be given in accordance with Idaho Code § 72-713. Exhibits, affidavits, and other documentation intended to be offered as evidence must be served on the opposing party at least 48 hours prior to hearing. The parties shall be afforded the opportunity to present witnesses at hearing. The Commission shall issue an order approving or denying the relief sought within ten (10) days after the stipulation of the parties, or the date of hearing.

6. The decision of the Commission shall not be subject to review on appeal until all issues relating to the claim have been decided by the Commission.
7. Nothing in this rule shall prevent employer from raising Idaho Code § 72-434 or Idaho Code § 72-435 as a defense to the payment of further benefits at hearing on the merits of a claim for additional medical and indemnity benefits.