

August 1, 2024

Kamerron Slay
Commission Secretary
Idaho Industrial Commission
11321 W. Chinden Blvd
Building #2
Boise, ID 83714

Sent via Email to commissionsecretary@iic.idaho.gov

RE: APCIA Comments on IDAPA 17.01.01 – Administrative Rules Under the Worker’s Compensation Law

Dear Ms. Slay:

The American Property Casualty Insurance Association (APCIA), representing almost 40% of Idaho’s property casualty insurance market, promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in Idaho, the U.S. and across the globe.

APCIA appreciates the opportunity to submit comments for the Idaho Industrial Commission’s Zero-Based Regulation (ZBR) rulemaking specifically regarding the rule requirements that companies maintain an Idaho bricks and mortar office presence that is adequately staffed as outlined in: **Section 305. Requirements for Maintaining Idaho Worker’s Compensation Claims Files** (page 13 of 170101-IDAPA-ZBR-working-copy-for-July-11.2024-Meetingt.pdf, attached to this email).

IDAPA 17.01.01.305.01 mandates maintaining a physical office with adequate personnel, yet Idaho Statute §72-305 requires claim adjusters to be located in Idaho but does not specify a physical office. Because the regulation is inconsistent with statute, a bulletin has been required to clarify the regulation. Thus, we recommend the regulation be clarified and be written simply to be consistent with statute, thereby eliminating the need for a clarifying bulletin.

APCIA specifically recommends the following language for IDAPA 17.01.01.305.01 on page 13 be edited as follows:

01. Idaho Office Presence.

- a. ~~All insurance carriers, self insured employers, and licensed adjusters servicing Idaho worker’s compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business.~~

Mandating a fully staffed bricks and mortar claims office in the state results in an additional, unnecessary administrative expense that is borne by the state's employers in the form of higher insurance premiums. Furthermore, mandated in-state claims offices are unnecessary with current technology and a growing culture of people telecommuting and working from a home office, which many claims adjusters do now. Face-to-face contact is seldom needed, and when it is insurers can accommodate it.

In 2023 APCI sponsored legislation to remove the bricks and mortar requirement from statute. During the Senate Commerce & Human Resources Committee hearing, both Senator James Ruchti (D-Pocatello) and Senator Todd Lakey (R-Nampa) commented that they did not believe that the law required a staffed office presence in the state. Rather, the law only references the need to have claims adjusters residing in the state. Given the goal of ZBR, this is a good opportunity for Idaho to streamline and clarify the regulation to be consistent with the law.

ZBR is designed to ensure rules are relevant, not outdated, and reflect what is required in Idaho Code and do not exceed the intent of law. Governor Brad Little's Executive Order No. 2020-01 states in part:

Ongoing Review Process for Existing Rules

4. An agency wishing to renew a rule chapter beyond the agency review date must promulgate a new rule in accordance with the provisions of the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code:

- a. *The agency must perform a retrospective analysis of the rule chapter to determine whether the benefits the rule intended to achieve are being realized, **whether those benefits justify the costs of the rule, and whether there are less restrictive alternatives to accomplish the benefits. This analysis should be guided by the legislative intent articulated in the statute or act** giving the agency the authority to promulgate the rule. (emphasis added)*

In conclusion, APCI believes there is no need for section a. to IDAPA 17.01.01.305.01. The law (§72-305) requires claims adjusters to be located in Idaho and to be Idaho residents. It requires insurers to “*provide prompt claims services through their own adjusting offices or officers located within the state, or by independent, licensed, resident adjusters*” (emphasis added). It does not require insurers to maintain a fully staffed business office within the state. Since the statute allows for either an office or an individual in the state, the current regulation unnecessarily limits options. We urge Idaho to join the ranks of 43 other states that have no bricks and mortar requirement to maintain an office.

Thank you for the opportunity to comment. If you have questions or need additional information you may contact me at 720-610-9473 or Lyn.Elliott@apci.org. We appreciate your thoughtful consideration.

Sincerely,



Lyn D. Elliott
Vice President, State Government Relations