

**Industrial Commission's Advisory Committee
On Workers' Compensation
Minutes
August 12, 2020**

Members Present

James Arnold
Ray Anchustegui
Richard Burleigh
Brad Cederblom
Dr. Paul Collins
Dane Higdem
Joe Maloney
Shellie Martin
Mike McPeck
Darin Monroe
Mike Shuey
Brad Stoddard
Brian Whitlock
Ex-Officio: Senator Jim Patrick

Members Absent

Dave Anderson, Chairman
Craig Mello
Ex-Officio: Representative Scott Syme

Industrial Commission

Thomas P. Baskin, Chairman
Aaron White, Commissioner
Thomas E. Limbaugh, Commissioner
Mindy Montgomery, Director
Kamerron Slay, Secretary

Opening Remarks and Introductions:

Chairman David Anderson experienced technical difficulties, and Dr. Paul Collins led the meeting by opening the meeting at 9:05 a.m. Dr. Collins led with introductions. Dr. Collins next requested introductions of Committee members and public attendees.

Minutes of February 12, 2020:

The minutes of February 12, 2020, were presented for review and approval. Upon the motion of Richard Burleigh, seconded by Shellie Martin, the minutes of February 12, 2020, were approved. The minutes were adopted by unanimous vote.

Industrial Commission Report:

➤ IRIS Update. Program Manager Shana Barrowclough updated the Committee on the progress of IRIS. The Invitation to Negotiate (ITN) for a technology integrator had been posted. Ms. Barrowclough indicated the implementation would occur one department at a time. Dr. Collins asked if the implementation would begin by the end of the year. Ms. Barrowclough indicated the technology integrator should be on board by the end of the calendar year. Ms. Barrowclough asked if there were any questions. There were none.

➤ 2020 Executive Orders. Commissioner White summarized Executive Order 2020-01 Zero Based Regulation and Executive Order No. 2020-02 Transparency in Government.

Zero Based Regulation. The Executive Order repeals the Red Tape Reduction Act and requires all agencies to review their IDAPAs over a 5-year timeline established by the Division of Financial Management (DFM). Agencies can only amend rules in conjunction with the chapter's designated year. Rules that an agency wished to promulgate outside of the review schedule must meet certain criteria to be considered by DFM and the Governor's office. The Commission has submitted the proposed review schedule-timeline to DFM:

- o Peace Officer and Detention Officer – 2022
- o Crime Victim's – 2023
- o Worker's Compensation – 2024

Transparency in Government. The Executive Order directs agencies to post their guidance document and final orders on their websites; the guidance documents are not new laws but an agency interpretation of existing laws. The Commission has listed its guidance documents on the website. Each guidance document lists agency contacts if there are any questions.

➤ 2020 Rules & Legislation. Commissioner Limbaugh updated the Committee on IDAPAs, related legislation, and the Commission's legislative ideas for the 2021 session.

2020 Session IDAPAs. Commission Limbaugh stated the Commission's 3 IDAPA chapters passed both the House & Senate Committees, but the omnibus bill on IDAPAs that entailed fees didn't pass. Agencies were directed to adopt their fee rules as temporary until the 2021 session.

2020 Related Legislation. Commissioner Limbaugh summarized legislation regarding HO342 (Telehealth), HO373 (Idaho Correction Acts), S1262 (Unemployment), S1263 (Firefighters Sunset Date), and S1321 (Exclusive Remedy).

2021 Legislative Ideas. Commissioner Limbaugh explained the agencies were directed to identify and eliminate obsolete statute language.

- o Idaho Code 72-713 Notice of Hearing. The Commission is seeking to eliminate the need to send certified mail for hearing pleadings to allow for an easily transition to electronic filing as apart of IRIS.
- o Idaho Code 72-102(4) & 72-436 Burial Expenses. The Commission intends to remove the description of burial expenses from the definition section of the statute and move it to 72-436.

Commissioner Limbaugh asked if there were any questions. There were none.

➤ IIC Emergency Orders RE COVID-19. Commissioner Baskin summarized the Emergency Order and the recent changes the Commission has made to business processes while telecommuting. Commissioner Baskin stated that the Commission doesn't intend to go back to physical documents in the future. Commissioner Baskin stated that the Commission is not yet conducting in-person hearings but hopes to resume live hearing in September, aligning with the Idaho Supreme Court's tentative schedule.

Commissioner Baskin provided information about COVID-19 claims the Commission has received. As of August 5th, there have been approximately 400 claims, of which 30% have been denied. These claims have mostly been filed by nursing homes, first responders, and medical workers. Currently, there are no contested COVID-19 claims. There has been 1 work-related COVID-19 death that was covered in the news. Senator Patrick inquired about the security of electronic filing. ITS has provided cybersecurity for the Commission.

Mr. Maloney asked if there were any concerns about the special session; there is a proposed bill circulating to create immunity for certain employers regarding COVID-19. Senator Patrick indicated that there are possible changes to the bill that will be addressed during the hearing. Commissioner Baskin asked if there were any additional questions. There were none.

➤ 2020 Milliman Benchmarking Report. Benefits Administration Manager Patti Vaughn summarized the Milliman report. Dr. Collins asked if they had noticed any trends. Ms. Vaughn indicated that there were no significant differences reported; Idaho is still above most states.

Other Issues/Announcements:

➤ NCCI COVID-19 Update. Todd Johnson updated the Committee on the impact of COVID-19 claims in Idaho. For the 2020-2021 rate filing, COVID-19 claims will be excluded from experience ratings. In April, DOI approved a change to the NCCI manual to exclude wages for furloughed employees for worker's compensation premiums (payroll x class code = premium). Wages paid to furlough employees may be coded as NCCI code 0012

Mr. Johnson summarized legislation other states are considering for presumption. Mr. Johnson stated UT had enacted presumption for first responders. CO is considering taking the presumption further to cover all essential workers. OR and WY has enacted presumption legislation. WA has presumption coverage for first responders and healthcare workers.

Public Comment: Cresta Filmore asked about employers who have already paid a premium that included furlough employees' wages.

Financial Officer Tami Humiston stated the Commission is looking into the matter and will refund money if needed.

Mr. Johnson asked if there were any additional questions. There were none.

➤ Elections of Members of the Advisory Committee. Ms. Slay stated the following members were up for reelection and indicated they would like to continue to serve on the Committee: Jamie Arnold, Joe Maloney, Shellie Martin, and Craig Mello.

Mike McPeck, an attorney representing Employers, will not be seeking an additional term creating a vacancy. Matt Pappas and Paul Augustine submitted their resumes for consideration to fill the vacancy. Mr. Pappas introduced himself to the Committee and summarized his professional background. Mr. Burleigh presented Mr. Augustine's materials and summarized his professional experience.

Ray Anchustegui, representing Employers, has nominated Andrew Marcham to replace him on the Committee. Mr. Marcham introduced himself to the Committee and summarized his professional background.

Ms. Slay indicated the Committee would need to select a new Chairman for a 1-year term. Upon the motion of Dane Higdem, seconded by Shellie Martin, Dr. Paul Collins was nominated as Chairman. Ms. Slay will send the Committee members the voting ballot electronically after the meeting.

Preparation for Future Meetings:

➤ **Subcommittee on Burial Expenses.** Ms. Vaughn asked the Committee if there was interest in forming a subcommittee to evaluate if the current \$6,000 cap on burial expenses needs to be adjusted. Ms. Vaughn provides the Committee with a WCRI Report on burial expenses from different states. Ms. Martin asked if there had been any complaints about the current amount. Ms. Vaughn indicated there hadn't been any formal complaints. The amount has been stagnant for almost 20 years. Dr. Collins inquired if there was an annual review, similar to medical fees. Ms. Vaughn indicated there were not any adjustments for the cost of living or yearly review. Mr. Maloney indicated he would be interested in a subcommittee on the matter. The Committee agreed to form a subcommittee on the issue.

Subcommittee on Burial Expenses: *Shellie Martin, Darin Monroe, Dr. Paul Collins, Joe Maloney, and Patti Vaughn.*

➤ **Topics for Next Meeting.** Ms. Vaughn presented Starr Kelso's letter detailing an issue with billing and timeliness for obtaining medical records to the Committee. Commissioner Baskin summarized the issue, which Mr. Kelso explained in further detail through his letters. Mr. Arnold opined that a subcommittee should be formed on the issue. The Committee agreed to form a subcommittee on medical records broken into two parts 1) billing for medical records and 2) timeliness of obtaining medical records.

Subcommittee on Billing/Timeliness of Medical Records: *Jamie Arnold (Chair), Dr. Paul Collins, Brian Whitlock, Shellie Martin, Richard Burleigh, Starr Kelso, Jeanne James, Patti Vaughn, and Commissioner Baskin.*

Next Meeting Date: November 18, 2020

There being no further discussion and no further business, Mr. Monroe moved to adjourn the meeting; seconded Ms. Martin. The motion carried by unanimous vote. The meeting adjourned at 10:35 a.m.