

**Kilian, Beth**

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**From:** Michael McPeek [mmcpeek@gardnerlaw.net]  
**Sent:** Wednesday, June 28, 2017 2:38 PM  
**To:** Kilian, Beth  
**Cc:** Haxby, Mike (mikeh@idahoic.com); Paulette.Boyle@Idahosif.org  
**Subject:** Written Comment Regarding Negotiated Rulemaking of IDAPA Docket #s 17-0208-1701; 17-0210-1701 and 17-0211-1701

**Importance:** High

Ms. Killian,

Please accept this e-mail as written comment regarding IDAPA Docket #s 17-0208-1701; 17-0210-1701 and 17-0211-1701.

My comments are directed to the language in 17.02.10.051.09.a regarding insurance carriers in both Options A and B, since the language in both is identical; and in 17.02.11.051.09.a regarding self-insured employers in both Options A and B, since the language in both is identical.

As a member of the Prompt Payment Subcommittee, I do not believe that the proposed language meets the concerns of many members of the subcommittee. The proposed rules require action within 28-days of the employer receiving knowledge of a claim (self-insured employer) or the surety receiving knowledge of the claim (insurance carrier). Neither rule addresses the concern repeatedly expressed at Subcommittee meetings—i.e., what is the date that triggers the 28-day action period by an adjuster for a claims administrator? That date is critical for claims administrators for purposes of claims audits. As I recall the sense of the Subcommittee, it anticipated that any final proposed rule was going to trigger the 28-day period as beginning to run when the claims administrator received written notice of the claim.

“Adjuster” and “Claims Administrator” are defined terms in the regulations regarding Insurance Carriers (17.02.10.010.01 and .02) and regarding Self-Insured Employers (17.02.11.010.01 and .023). In both cases, “Adjuster” is defined as “[a]n individual who adjusts workers’ compensation claims” and “Claims Administrator” is defined as “[a]n organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that service workers’ compensation claims.” Consequently, for purposes of clarity and to avoid any ambiguity regarding the responsibility, I believe the language in these sections needs to be modified.

I would suggest the following wording, which would be the same in both insurance carrier and self-insured employer situations.

- a. Making an initial decision to accept or deny a claim for an injury or occupational disease with 28 days after the Claims Administrator received written or electronic knowledge of the same. The worker shall be given notice of that initial decision in accordance with Idaho Code § 72-806.

Thank you for the opportunity to provide comment.

Michael G. McPeek  
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