

DRAFT PROPOSAL – Exclusion of Prior Disability from Average Weekly Wage Calculation  
(10 July 2018)

**IDAPA 17**

**TITLE 02**

**CHAPTER 04**

**17.02.04 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION  
UNDER THE WORKERS' COMPENSATION LAW –  
BENEFITS**

(Break in continuity of sections)

**191. RULE GOVERNING COMPUTATION OF AVERAGE WEEKLY WAGE.**

**01. Amounts Paid over Base Rate.** Sums paid by an employer to an employee, over and above the base rate of compensation agreed upon by the employer and the employee in a contract of hire, which are contingent and dependent upon the employee's increased physical exertion and/or efficiency shall be included in computing the employee's average weekly wage pursuant to Section 72-419(4)(a), Idaho Code. Said sums shall not be considered premium pay. (7-25-79)

**02. Fringe Benefits.** Also, in computing the average weekly wage, it shall be presumed that wages shall include, but shall not be limited to, cost of living increases, vacation pay, holiday pay, and sick leave. (7-25-79)

**03. Premium Pay.** Further, in computing the average weekly wage, it shall be presumed that premium pay shall include, but shall not be limited to, shift differential pay, and overtime pay. (7-25-79)

**04. Examples Not Exclusive.** The above-listed examples shall not be taken as exclusive in computing the average weekly wage. (7-25-79)

**05. Prior Total Temporary Disability Period Excluded From 52 Week Computation.** For purposes of calculating the Average Weekly Wage pursuant to Section 72-419(4)(a), Idaho Code, periods during which the worker has been paid Total Temporary Disability benefits shall be excluded in defining the 52 week period immediately preceding the subject accident or manifestation of the disease for which the average weekly wage is being computed. The calculation of average weekly wage in that case shall be based on that 52 week period nearest to the most recent injury or disease manifestation during which the employee actually earned wages without having received any disability payment.