

IDAHO INDUSTRIAL COMMISSION  
**NEGOTIATED RULEMAKING- Electronic Payment Transfers**  
**1<sup>st</sup> MEETING MINUTES**  
Tuesday, July 24, 2018  
9:00 a.m.  
700 So. Clearwater Ln., Boise, Idaho  
1<sup>st</sup> Floor Conference Room

**Interested Parties:**

Angie East- State Insurance Fund  
Shannon Hildreth- St.Luke's  
Matt Andrew- Claimants  
Jasen Carrier- Intermountain Claims  
Cindy Weigel- Intermountain Claims  
Mike Kane- PCI/AIA  
Woody Richards- Insurance  
Miles Merwin- State Insurance Fund  
Shellie Martin- Travelers  
Edward Dindinger- Dindinger & Kohler, PLLC  
Darin Monroe- Claimants  
Jamie Arnold- Claimants (V)  
Mike Kessinger- Claimants (V)

**Industrial Commission:**

Chairman Tom Limbaugh  
Commissioner Aaron White  
Commissioner Tom Baskin  
Director Mindy Montgomery  
Secretary Kamerron Monroe  
Patti Vaughn, Benefits Manager  
Lacey Rammell-O'Brien, Law Clerk  
Richelle Flores, Benefits  
Matt Shiver, Benefits Analyst

**Welcome and Introductions:**

Ms. Patti Vaughn called the meeting to order at 9:00 a.m. and led with introductions.

**The following handouts were provided to the group:**

- (1) Electronic Payment Transfers Draft Language- 2018; (2) Rule Writer's Manual pages 8-10

**Discussion & Comments:**

Ms. Vaughn summarized the background regarding the rule. This topic came up because sureties had approached the Commission about endorsing debit cards for indemnity benefits on claims. Ms. Vaughn noted that the Commission's rules did not address electronic payment of any kind. Ms. Vaughn stated the language presented today was a draft and only incorporated direct deposit and not debit cards. Ms. Vaughn invited the group to share their thoughts on the language and suggestions.

Mr. Jasen Carrier questioned why section d(iii) of the draft asked for 8 weeks notice. Ms. Vaughn explained that was a number picked for the draft.

Mr. Mike Kane stated that his members had asked the Commission about debit cards. Mr. Kane didn't see any problems if the injured worker agreed to it in writing.

Commissioner Tom Baskin opined that there are some problems with electronic checks over debit card, for example some claimants don't have banks. Commissioner Baskin inquired as to what the claimant's bar thought about this idea. How would attorneys collect fees? The claimant's bar did like the concept of getting claimants their indemnity benefits more quickly as there is currently a lag. Mr. Matt Andrew stated the problem he foresees is a fee issue where the claimant may owe fees and by directly depositing it, the attorney can not get that money back. Mr. Andrew also stated that there would be a problem tracking benefits. Claimant attorneys will need some sort of paperwork showing the period the benefits are being paid for in case of a dispute. Commissioner Baskin asked their thoughts on debit cards. Mr. Andrew stated that many of his clients are poor and go to check cashing places as they either don't have bank accounts or don't trust banks. Mr. Andrew did like the idea that the claimant can elect to participate. Mr. Andrew would send a letter to the surety asking them to send him paperwork so he can track the pay periods and to let them know if there were any attorney fees.

Mr. Blair Jaynes asked Mr. Andrew: if claimant agrees to electronic payments how does an attorney gets their money back if the checks are directly deposited into the client's personal account. Mr. Andrew advised that they have a contract with their clients and fees are covered in that paperwork; if the attorney and client are not in agreement than there is no longer an agreement. Mr. Jaynes posed the same questions but for debit cards. Mr. Andrew stated that claimants can't pay rent with debit cards, there has to be a way to withdraw funds to pay bills in general.

The State Insurance Fund commented that that their policy is to send notice about benefits being paid to both claimant and attorney. Ms. Shellie Martin opined that it would be additional work for claims examiners to send out those notices, she suggested on a requested basis sending those notices. Commission Limbaugh asked if sureties can send a portion of the benefits payments to both claimant and attorney separately electronically. Mr. Andrew stated that benefits payments are run through their firm's trust account and is unsure if third parties can deposit into account. When there is a lump sum payment, sureties have sent two checks one for claimant and one for attorney. Ms. Martin stated that they would not do electronic checks for third party attorneys, only injured workers. Mr. Carrier stated they do not want to get between a client and attorney. Ms. Cindy Weigel agreed with Ms. Martin that it was an extra cost and resource for the claim examiner to have to send out notices.

Mr. Jaynes asked the State Insurance Fund which bank they use for their checks. The State Insurance Fund uses U.S. Bank and claimants can go to that bank and cash a check. The State Insurance Fund received multiple returned checks and finds it difficult when the checks are returned to get them to the claimant.

Mr. Kane commented that they have no interest in stepping on attorney client relationship; he also found it interesting to hear many people do not use banks at all. Mr. Kane stated that as far as notifying a claimant it can be done electronically. He offered to get more info from his client about doing this.

Ms. Martin opined that it should be an agreement between all parties to do electronic payments. Commissioner Limbaugh asked if Travelers covered Oregon and what they do there. Ms. Martin stated electronic payments were an option but they do not do debit cards in Oregon only electronic checks and it is not mandated. Mr. Andrew asked if sureties can go in and “correct” the fund amount. Ms. Martin stated we have no way of changing it. Mr. Andrew asked if it was a one-way power and if it was the same for debit cards. The State Insurance Fund stated they can not pull funds out.

Ms. Vaughn raised the concern that with electronic funds and debit cards there is another third party, and there are fees involved with withdrawing funds. Ms. Vaughn asked if there were ways to avoid them, what about claimants who trip fees? A claimant would have to withdraw his portion of the rent leaving a remaining balance that he would again have to withdraw from later. Ms. Vaughn questioned what are the boundaries between what fees are reasonable and not. Mr. Kane opined that you should have some suaveness if you pick these options. The State Insurance Fund stated that Chris Taylor at Department of Labor would be a good contact to inquire what DOL does for debit cards. Commissioner Limbaugh commented that Oregon uses US Bank and has no fees for withdrawing from them, there is a \$2.00 fee for out-of-network withdraws, and if you lose the card it is a \$15.00 replacement fee. The State Insurance Fund has been looking into debit cards and stated that the bank carrier handles the administration of the cards; does not want to ignore the fact that there are fees with regular debits cards for check cashing places. Mr. Jaynes opined that many rural residents may not have access to as many banks. Mr. Andrew stated that he was in favor of more options for claimants to get their funds; a client can get a paper check, electronic check, or debit card.

Ms. Vaughn raised the issue of addressing child support liens. Ms. Martin stated that they have issued separate checks, one to go to the claimant and one addressed to child support just like any employer does.

Mr. Jamie Arnold commented that it appears many people would appreciate electronic transfer payments. Commissioner Baskin asked what Mr. Arnold thought about obtaining attorney fees on the funds. Mr. Arnold agreed with Mr. Andrew that an attorney could request a manual check, address it in our contract, or receive notices.

Mr. Kane stated they would take direction from claimant attorneys. Mr. Michael Kessinger stated that as long as a notice was issued with payment. Mr. Kessinger stated it is hard to track payments electronically. Ms. Vaughn asked if claimant’s attorneys had the option to request the ledger notes periodically, would that alleviate concern. Mr. Kessinger stated it would help but there would be a chance of delay in payments if the attorney can not track them.

Mr. Kane opined that if there is a problem we should include in the rule about withdrawing consent to solve some of these issues. Ms. Vaughn asked how much notice a surety would need for this option. Ms. Martin stated 2 days would be sufficient. Ms. Vaughn asked how long it would take to convert electronic checks to paper checks. Ms. Martin stated it would be instantly. Commissioner Baskin asked if 7 days would be enough time. The sureties agreed it would be.

In Oregon, a void check is also issued with the information at the very same time as a deposit is issued into a debit card. The State Insurance Fund stated they would provide an Explanation of Benefits; Travelers took the position that they would not issue notices. The State Insurance Fund stated it helps them convey the “if you return to work on this date, please return this check.” Commissioner Limbaugh asked if there was a way for claimants to look up their information electronic online. The State Insurance Fund is currently working on that.

Commissioner Baskin asked why represented claimant attorneys shouldn’t get copies. Ms. Martin stated it was a lot of work. Mr. Kane stated that electronic payment transfers would be a saving for the sureties.

As time was limited, Ms. Vaughn gave 3 options going forward: to do nothing with the rule, go forward with the draft presented today, or submit a draft rule that also includes debit cards. Mr. Kane voted for a draft rule with debit, he can provide more information about the issues today. Ms. Martin supported including debit cards. The State Insurance Fund supported including debit cards. St. Luke’s supported including debit cards. Mr. Andrew supported including debit cards but did have concerns about notices. Mr. Richards supported including debit cards.

**Next Meeting:**

Ms. Vaughn announced that the Commission would extend the comment period until August 1<sup>st</sup> 2018. There were no further meetings scheduled at this time. The meeting adjourned at 10:28 a.m.