051-305 REQUIREMENTS FOR MAINTAINING IDAHO WORKER'S COMPENSATION CLAIMS FILES.

All insurance carriers, self-insured employers, and licensed adjusters servicing Idaho worker's compensation claims shall comply with the following requirements:

01. Idaho Office.

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.

b. The insurance carrier or self-insured employer shall authorize and require a member of its in-state staff or an Idaho licensed resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities:

i. Investigate and adjust all claims for compensation;

ii. Pay all compensation benefits due;

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law;

iv. Enter into compensation agreements and lump sum settlements with Claimants; and

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law.

c. As staffing changes occur and, at least annually, the insurance carrier, self-insured employer, or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims administrator for each policy of worker's compensation insurance.

02. Claim Files. All Idaho worker's compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to:

a. First Report of Injury (FROI) and Claim for Benefits;

b. Copies of bills for medical care;

c. Copy of lost-time computations, if applicable;

d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays, and acceptance or denial of compensability;
e. Employer's Supplemental Report; and

f. Medical reports.

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices.

04. Date Stamp. Each of the documents listed in Subsections 051.305.02 and 051.305.03, above, shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office.

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses, and fatalities shall be sent directly to the in-state adjuster or the insurance carrier or self-insured employer. The original copy of the First Report of Injury, Claim for Benefits, and notices of occupational illness and fatality shall be sent directly to the Industrial Commission.

06. Compensation Payments - Generally.

a. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office.

b. Except as ordered otherwise by the Commission, the insurance carrier or self-insured employer may make compensation payments by either:

   i. Check or other readily negotiable instrument;
   ii. When requested by the claimant, electronic transfer payment to an account designated by the claimant in accordance with the requirements of Subsection 051.305.07, below; or
   iii. When requested by the claimant, electronic transfer payments made through an access card; if that option is made available by the carrier or self-insured employer, in accordance with the requirements of Subsection 051.305.08, below.

c. If the claimant is represented by an attorney who may have an attorney's lien for fees due on such compensation payments, the attorney must agree to payment by electronic transfer to claimant's account or payment through an access card before such compensation may be paid other than by a check made payable to the claimant and the attorney.

07. Electronic Transfer Payments.

a. A claimant may request that the insurance carrier or self-insured employer make compensation payments by electronic transfer to a personal bank account by providing the insurance carrier or self-insured employer in writing: the name and routing transit number of the financial institution and the account number and type of account to which the claimant wants to have the compensation electronically transferred. The insurance carrier or self-insured employer shall provide the claimant with a written form to fill out the required information by this subsection within seven (7) days of receiving a request for electronic transfer of payments from the claimant unless the claimant has already completed an on-line electronic form provided by the carrier.

b. The insurance carrier or self-insured employer may make compensation payments to the claimant by electronic transfer to an account designated by the claimant if the
Claimant requests:

i. Requests in writing that payment be made by electronic transfer; (        )

provides

ii. Provides the information required by Paragraph 051 305.07.a., above; and (        )

is

iii. Is reasonably expected to be entitled to receive compensation payments for a period of eight (8) weeks or more from the point that Subparagraphs 051 305.07.b.i. and 07.b.ii. above, are satisfied. (        )

c. The insurance carrier or self-insured employer shall initiate payment by electronic transfer starting with the first benefit payment due on or after the 21st twenty first day after all the requirements of Paragraph 051 305.07.b., above are met, but shall continue to make timely payments by check until the insurance carrier or self-insured employer initiates benefit payment delivery by electronic transfer. (        )

d. If the claimant has previously been receiving benefit payments by electronic transfer and wants to receive benefits by check, the insurance carrier or self-insured employer shall initiate benefit payment delivery by check starting with the first benefit payment due to the claimant on or after the 7th seventh day after receiving a written request for such payments. (        )

08. Access Card Payments.

a. Access card means any card or other payment method that may be used by a claimant to initiate electronic fund transfer from an insurance carrier's bank account. The term “access card” does not include stored value cards or prepaid cards that store funds directly on the card and that are not linked to an insurance carrier's bank account. (        )

b. An insurance carrier or a self-insured employer may pay compensation through an access card to a claimant if there is written mutual agreement signed by the insurance carrier or self-insured employer and the claimant. The insurance carrier or self-insured employer shall maintain accurate records of the mutual agreement for, at a minimum, four hundred and one (401) weeks from the date of injury. The written agreement shall contain an acknowledgement that the claimant received and agreed to the written disclosure required by Paragraph 051 305.08.d., below. (        )

c. An insurance carrier or a self-insured employer providing compensation payments to a claimant through an access card shall:

i. Permit the claimant to withdraw the entire amount of the balance of an access card in one transaction; (        )

ii. Not reduce compensation payments paid to a claimant through an access card for the following fees, surcharges, and adjustments:

(1) Overdraft services under which a financial institution pays a transaction (including a check or other item) when the claimant has insufficient or unavailable funds in the account; (        )

(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; (        )
(3) ATM balance inquiries;

(4) Withdrawing money from network ATMs;

(5) Withdrawing money from a teller;

(6) Customer service calls;

(7) Activating the card;

(8) Fees for card inactivity;

(9) Closing account;

(10) Access card replacement through standard mail;

(11) Withdrawing the entire payment in one transaction;

(12) Point of sale purchases, or

(13) Any other fees or charges that are not authorized under Subparagraph 051.305.08.c.iii, below, and (___)

iii. Only permit a claimant to be charged for the following:

(1) Fees for access card replacement through an expedited mail service;

(2) International transaction fees, and

(3) Out-of-network ATM fees.

d. Insurance carriers or self-insured employers shall provide a written disclosure to the claimant contemporaneously with the written mutual agreement required under Paragraph 051.305.08.b, above. The written disclosure shall include:

i. A summary of the claimant’s liability for unauthorized electronic fund transfers;(___)

ii. The telephone number and address of the person or office to be notified when the claimant believes that an unauthorized electronic fund transfer has been or may be made; (___)

iii. The type of electronic fund transfers that the claimant may make and any limitations on the frequency of transfers; (___)

iv. Any fees imposed for electronic fund transfers or for the right to make transfers, including a statement that fees may be imposed by an ATM operator that is out-of-network; (___)

v. Fees for expedited card replacement or international transaction fees will be removed from the balance maintained in the bank account linked to the access card; (___)

vi. A summary of the claimant’s right to receipts and periodic statements; (___)

vii. All bank locations and network ATMs in the United States where the claimant may access his or her funds at no cost; (___)
viii. A statement informing the claimant that they have a right to receive payments directly into their personal bank account through direct deposit or by check.

e. An insurance carrier or a self-insured employer shall provide the written disclosure and any notice of term or condition changes required under this Subsection 051 Paragraph 305.08.d, that:

i. Are printed in not less than twelve (12-) point font;

ii. Include the full text in English, Spanish, and any other language common to the claimant population, to communicate all terms and conditions;

iii. Are written in a clear and coherent manner and wherever practical, words with common and everyday meaning shall be used to facilitate readability; and

iv. Are appropriately divided and captioned in a meaningful sequence such that each section contains an underlined, boldfaced, or otherwise conspicuous title or caption at the beginning of the section that indicates the nature of the subject matter included in or covered by the section.

f. An access card issued to a claimant under this Subsection 051 305.08 shall:

i. Shall not bear any information that could reasonably identify the claimant as a participant in the workers' compensation system; and

ii. Shall include on the front or back of the access card a toll-free customer service number and website address. Customer service personnel shall be available by phone Monday through Friday during normal business hours (9:00 a.m. to 6:00 p.m. Mountain Time).

g. The insurance carrier or self-insured employer shall provide a written notice to the claimant at least twenty one (21) days before the effective date of any change in a term or condition of the mutual agreement or disclosure, including terminating the access card program, increased fees, or liability for unauthorized electronic fund transfers. Any terms or conditions that violate the requirements of this Subsection 051 305.08 are null and void and may result in administrative action against the carrier or employer. An insurance carrier or employer shall provide a written notice of term or condition changes that:

i. Provides a comparison of the current terms and the changes; and

ii. References the claimant's ability to request a change in method of payment to electronic fund transfer to his or her personal bank account in accordance with Subsection 051 305.07, above or to payment by check.

h. An insurance carrier or a self-insured employer may close the access card account by issuing a check to the claimant with the remaining balance of the access card if the account has been inactive for twelve (12) months or longer.

i. The insurance carrier or self-insured employer shall not remove money from the claimant's account or access card except to remove permitted fees under Subparagraph 051 305.08.c.iii, above, or to close the account for inactivity of a period of twelve (12) months or more. An insurance carrier or a self-insured employer seeking to recoup overpayments shall follow the requirements of section 72-316, Idaho Code.

j. An insurance carrier or a self-insured employer is considered to have made a compensation payment the date the payment is available on the claimant's access card.
Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit an insurance carrier or a self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier or self-insured employer, attesting to the fact that the insurance carrier or self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier or self-insured employer for which a waiver under this rule has been granted to assure that the insurance carrier or self-insured employer is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier or self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after allowing the insurance carrier or self-insured employer an opportunity to be heard, may revoke the waiver and order the insurance carrier or self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

Copies of Checks. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days after the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. (3-28-18)

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier or self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. (3-28-18)
ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 305.11.c.iii., below. (3-28-18)

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier or self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier or employer an opportunity to be heard, may revoke the waiver with respect to all or certain claims and order the insurance carrier or self-insured employer to comply with the requirements of Subsection 305.11.c. of this rule. (3-28-18)

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. (3-28-18)

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee’s pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. (3-28-18)

1112. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

1213. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance or self-insured employer to self-insure its worker's compensation insurance obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)