

Dear Senators PATRICK, Martin, Schmidt, and  
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Industrial Commission:

IDAPA 17.02.09 - Medical Fees - Adoption of Temporary Rule (Docket No. 17-0209-1503).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 09/16/2015. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/15/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

**FROM:** Legislative Research Analyst - Elizabeth Bowen

**DATE:** August 27, 2015

**SUBJECT:** Industrial Commission

IDAPA 17.02.09 - Medical Fees - Adoption of Temporary Rule (Docket No. 17-0209-1503)

The Industrial Commission submits notice of temporary rulemaking at IDAPA 17.02.09. The temporary rule, effective July 1, 2015, relates to the standards used to determine acceptable charges for hospital outpatients under the Idaho workers' compensation law. Specifically, the rule delays implementation of a certain standard while a related rule is being revised. According to the Commission, the Governor has found that the temporary rule is appropriate to avoid confusion pending the rule revision. The Commission states that the temporary rule is authorized under Sections 72-508 and 72-803, Idaho Code.

cc: Industrial Commission  
Mindy Montgomery

# IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

## 17.02.09 - MEDICAL FEES

### DOCKET NO. 17-0209-1503

#### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2015. This temporary rule will remain in effect through July 1, 2016, at which time the temporary rule will expire and be replaced by a final rule, unless the temporary rule is otherwise affected by an operation of law.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 72-508 and 72-803, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rule will delay the implementation of the 2015 Centers for Medicare & Medicaid Services (CMS) Outpatient Prospective Payment System Ambulatory Payment Classification (APC) relative weights that became effective January 1, 2015. By extending the use of the 2014 OPSS Relative Weights, payments will remain stable while IDAPA 17.02.09.032 is revised to better align with CMS's goal of packaging a broader range of hospital outpatient services into a single payment.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Adoption of this temporary rule will avoid confusion in the calculation of hospital outpatient payments on workers' compensation claims.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Patti Vaughn, Medical Fee Analyst at (208) 334-6084.

DATED this 4th Day of June, 2015.

Mindy Montgomery, Director  
Industrial Commission  
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#### **THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 17-0209-1503 (Only those Sections being amended are shown.)**

#### **032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.**

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. (1-1-12)

**01. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services provided by hospitals and ambulatory surgery centers. (1-1-12)

**02. Adoption of Standards for Hospitals and ASCs.** The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. (1-1-12)

**a. Critical Access and Rehabilitation Hospitals.** The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty percent (50%). (1-1-12)

**b. Hospital Inpatient Services.** The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand two hundred dollars (\$10,200). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, implantable hardware charges billed for services without an MS-DRG weight shall be reimbursed at the rate of actual cost plus fifty percent (50%). (7-1-15)

**c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services.** The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System (OPPS) APC weight in effect on the first day of January of the current calendar year; however, on and after January 1, 2015, the OPPS APC weight in effect on January 1, 2014, shall be used. The base rate for hospital outpatient services is one hundred forty dollars and seventy-five cents (\$140.75). The base rate for ASC services is ninety-one dollars and fifty cents (\$91.50). ~~(7-1-15)~~(7-1-15)T

**i.** Medical services for which there is no APC weight listed shall be reimbursed at seventy-five percent (75%) of the reasonable charge. (7-1-12)

**ii.** Status code N items or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment except as provided in Subsection 032.02.c.ii.(1). or 032.02.c.ii.(2). of this rule. (7-1-15)

**(1)** Implantable Hardware may be eligible for separate payment under Subsection 032.02.e.iii. of this rule. (7-1-15)

**(2)** Outpatient laboratory tests provided with no other hospital outpatient service on the same date, or outpatient laboratory tests provided on the same date of service as other hospital outpatient services that are clinically unrelated may be paid separately if billed with modifier L1. Payment shall be made in the same manner that services with no APC weight are paid under Subsection 032.02.c.i. of this rule. (7-1-15)

**iii.** Two (2) or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). (1-1-12)

**iv.** Status code Q items with an assigned APC weight will not be discounted. (1-1-12)

**d.** Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no hospital fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. (1-1-12)

**e.** Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. (1-1-12)

i. **Inpatient Threshold Exceeded.** When the charge for a hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 032.02.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. (1-1-12)

ii. **Inpatient Implantable Hardware.** Hospitals may seek additional reimbursement beyond the MS-DRG payment for invoiced implantable hardware where the aggregate invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed three thousand dollars (\$3,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

iii. **Outpatient Implantable Hardware.** Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the aggregate invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed one thousand dollars (\$1,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

**03. Disputes.** The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Section 035 of this rule. (1-1-12)

**04. Adjustment of Hospital and ASC Base Rates.** The Commission may periodically adjust the base rates set out in Subparagraphs 032.02.b. and 032.02.c. of this rule to reflect changes in inflation or market conditions. (1-1-12)