

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 435

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-432, IDAHO CODE, TO  
2 PROVIDE THAT NEITHER AN EMPLOYER NOR A SURETY SHALL BE REQUIRED TO PAY  
3 FOR MEDICAL SERVICES IN AMOUNTS EXCEEDING THOSE PROVIDED IN ANY MEDICAL  
4 REGULATION OR FEE SCHEDULE PROMULGATED BY THE INDUSTRIAL COMMISSION AND  
5 TO MAKE TECHNICAL CORRECTIONS.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 72-432, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 72-432. MEDICAL SERVICES, APPLIANCES AND SUPPLIES -- REPORTS. (1)  
11 Subject to the provisions of section 72-706, Idaho Code, the employer shall  
12 provide for an injured employee such reasonable medical, surgical or other  
13 attendance or treatment, nurse and hospital services, medicines, crutches  
14 and apparatus, as may be reasonably required by the employee's physician or  
15 needed immediately after an injury or manifestation of an occupational dis-  
16 ease, and for a reasonable time thereafter. If the employer fails to provide  
17 the same, the injured employee may do so at the expense of the employer.

18 (2) The employer shall also furnish necessary replacements or repairs  
19 of appliances and prostheses, unless the need therefor is due to lack of  
20 proper care by the employee. If the appliance or prosthesis is damaged or  
21 destroyed in an industrial accident, the employer, for whom the employee was  
22 working at the time of accident, will be liable for replacement or repair,  
23 but not for any subsequent replacement or repair not directly resulting from  
24 the accident.

25 (3) In addition to the income benefits otherwise payable, the employee  
26 who is entitled to income benefits shall be paid an additional sum in an  
27 amount as may be determined by the commission as by it deemed necessary, as a  
28 medical service, when the constant service of an attendant is necessary by  
29 reason of total blindness of the employee or the loss of both hands or both  
30 feet or the loss of use thereof, or by reason of being paralyzed and unable to  
31 walk, or by reason of other disability resulting from the injury or disease  
32 actually rendering him so helpless as to require constant attendance. The  
33 commission shall have authority to determine the necessity, character and  
34 sufficiency of any medical services furnished or to be furnished and shall  
35 have authority to order a change of physician, hospital or rehabilitation  
36 facility when in its judgment such change is desirable or necessary.

37 (4) (a) The employee, upon reasonable grounds, may petition the commis-  
38 sion for a change of physician to be provided by the employer; however,  
39 the employee must give written notice to the employer or surety of the  
40 employee's request for a change of physicians to afford the employer  
41 the opportunity to fulfill its obligations under this section. If  
42 proper notice is not given, the employer shall not be obligated to pay

1 for the services obtained. Nothing in this section shall limit the  
2 attending physician from arranging for consultation, referral or spe-  
3 cialized care without permission of the employer. Upon receiving such  
4 written notice, the employer shall render its written decision on the  
5 claimant's request within fourteen (14) days. If any dispute arises  
6 over the issue of a request for change of physician, the industrial com-  
7 mission shall conduct an expedited hearing to determine whether or not  
8 the request for change of physician should be granted, and shall render  
9 a decision within fourteen (14) days after the filing of the response by  
10 the employer.

11 (b) The industrial commission shall, no later than December 31, 1997,  
12 promulgate a rule for the expeditious handling of a petition for change  
13 of physician pursuant to this section. Nothing herein shall prevent the  
14 commission from making periodic amendments, as may become necessary, to  
15 any rule for a petition for change of physician.

16 (5) Any employee who seeks medical care in a manner not provided for in  
17 this section, or as ordered by the industrial commission pursuant to this  
18 section, shall not be entitled to reimbursement for costs of such care.

19 (6) No provider shall engage in balance billing as defined in section  
20 72-102, Idaho Code.

21 (7) An employee shall not be responsible for charges of physicians,  
22 hospitals or other providers of medical services to whom he has been referred  
23 for treatment of his injury or occupational disease by an employer\_desig-  
24 nated physician or by the commission, except for charges for personal items  
25 or extended services which the employee has requested for his convenience  
26 and ~~which~~ that are not required for treatment of his injury or occupational  
27 disease.

28 (8) The employer or surety shall not be subject to tort liability to any  
29 health care provider for complying with the provisions of this law.

30 (9) Nothing in this chapter shall be construed to require a workman who  
31 in good faith relies on Christian Science treatment by a duly accredited  
32 Christian Science practitioner to undergo any medical or surgical treat-  
33 ment, providing that neither he nor his dependents shall be entitled to  
34 income benefits of any kind beyond those reasonably expected to have been  
35 paid had he undergone medical or surgical treatment, and the employer or  
36 insurance carrier may pay for such spiritual treatment.

37 (10) The commission shall promulgate rules requiring physicians and  
38 other practitioners providing treatment to make regular reports to the com-  
39 mission containing such information as may be required by the commission.  
40 The commission shall promulgate such rules with the counsel, advice, cooper-  
41 ation and expertise of representatives of industry, labor, sureties and the  
42 legal and medical professions as well as institutions, hospitals and clinics  
43 having physical rehabilitation facilities.

44 (11) All medical information relevant to or bearing upon a particular  
45 injury or occupational disease shall be provided to the employer, surety,  
46 manager of the industrial special indemnity fund, or their attorneys or au-  
47 thorized representatives, the claimant, the claimant's attorneys or autho-  
48 rized representatives, or the commission without liability on the part of  
49 the physician, hospital or other provider of medical services; and informa-  
50 tion developed in connection with treatment or examination for an injury or

1 disease for which compensation is sought shall not be privileged communica-  
2 tion. When a physician or hospital willfully fails to make a report required  
3 under this section, after written notice by the commission that such report  
4 is due, the commission may order forfeiture of all or part of payments due  
5 for services rendered in connection with the particular case. An attorney  
6 representing the employer, surety, claimant or industrial special indemnity  
7 fund shall have the right to confer with any health care provider without  
8 the presence of the opposing attorney, representative or party, except for  
9 a health care provider who is retained only as an expert witness.

10 (12) Physicians or others providing services under this section shall  
11 assist in the rehabilitation program provided in section 72-501A, Idaho  
12 Code. They shall cooperate with specialists from the commission's reha-  
13 bilitation staff and with employer rehabilitation personnel in furthering  
14 the physical or vocational rehabilitation of the employee. The extension  
15 of total temporary disability benefits during retraining as authorized by  
16 section 72-450, Idaho Code, shall be the responsibility of the commission,  
17 however, the physician shall inform the commission as soon as it is medically  
18 apparent that the employee may be unable to return to the job in which he  
19 sustained injury or occupational disease following treatment and maximum  
20 recovery.

21 (13) An injured employee shall be reimbursed for his expenses of nec-  
22 essary travel in obtaining medical care under this section. Reimbursement  
23 for transportation expenses, if the employee utilizes a private vehicle,  
24 shall be at the mileage rate allowed by the state board of examiners for state  
25 employees; provided however, that the employee shall not be reimbursed for  
26 the first fifteen (15) miles of any round trip, nor for traveling any round  
27 trip of fifteen (15) miles or less. Such distance shall be calculated by the  
28 shortest practical route of travel.

29 (14) An employee who leaves the locality where employed at the time of  
30 the industrial accident, or manifestation of an occupational disease, or  
31 the locality in which the employee is currently receiving medical treatment  
32 for the injury, shall give timely notice to the employer and surety of the  
33 employee's leaving the locality. The employer or surety may require the  
34 claimant to report to the treating physician for examination prior to leav-  
35 ing the locality, if practical. If an examination by the treating physician  
36 is not practical prior to leaving the locality, the employer or surety may  
37 assist in arranging an examination by an appropriate physician in the new lo-  
38 cality. After receiving notice of relocation, the employer or surety shall  
39 have the same responsibility to furnish care as set forth in subsection (1)  
40 of this section.

41 (15) Neither the employer nor surety shall be required to pay for medi-  
42 cal services provided for by this section in amounts in excess of that pro-  
43 vided in any medical regulation or medical fee schedule promulgated by the  
44 commission as applicable on the date of service.