

Dear Senators PATRICK, Guthrie, Ward-Engelking, and  
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Insurance:

IDAPA 18.01.06 - Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children  
- Proposed Rule (Docket No. 18-0106-1801);

IDAPA 18.01.23 - Rules Pertaining to Idaho Acquisitions of Control and Insurance Holding  
Company Systems - Proposed Rule (Docket No. 18-0123-1801);

IDAPA 18.01.24 - Advertisement of Disability (Accident and Sickness) Insurance - Proposed Rule  
(Docket No. 18-0124-1801).

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 09/24/2018. 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 10/22/2018.

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 Business Committee

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

**DATE:** September 05, 2018

**SUBJECT:** Department of Insurance

IDAPA 18.01.06 - Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children - Proposed Rule (Docket No. 18-0106-1801)

IDAPA 18.01.23 - Rules Pertaining to Idaho Acquisitions of Control and Insurance Holding Company Systems - Proposed Rule (Docket No. 18-0123-1801)

IDAPA 18.01.24 - Advertisement of Disability (Accident and Sickness) Insurance - Proposed Rule (Docket No. 18-0124-1801)

#### Summary and Stated Reasons for the Rule

Docket No. 18-0106-1801, a proposed rule, provides that references to "premium" in the existing language of the rule shall also apply to contributions to self-funded health plans. The purpose of the rule is to provide clarity.

Docket No. 18-0123-1801, a proposed rule, revises language regarding extraordinary dividends in order to be consistent with the provisions of HB 454 (2018).

Docket No. 18-0124-1801, a proposed rule, revises language regarding prior review by the Department of Insurance of advertising materials relating to accident and sickness insurance. The purpose of the rule is to streamline the review process.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted for all three rules. The rules are not anticipated to have a negative fiscal impact on the state general fund.

#### Statutory Authority

I.C. 41-211 (all three), I.C. 41-3817 (Docket No. 18-0123-1801).

cc: Department of Insurance  
Thomas A. Donovan

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.06 – RULE TO IMPLEMENT UNIFORM COVERAGE FOR NEWBORN AND NEWLY ADOPTED CHILDREN

DOCKET NO. 18-0106-1801

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rule applies to self-funded health plans subject to registration with the Department, as well as health insurers, and addresses coverage for congenital anomalies. There is some language in the rule that refers to premiums that denotes health insurance only and causes confusion for self-funded plans given that the term used for payments by members covered by a self-funded plan is “contribution” and not “premium.” This rulemaking seeks to modify language in Section 012 to include contributions in addition to premiums.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Volume 18-7, page 131](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov), or (208) 334-4315.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the above contact and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

Dean L. Cameron  
Director Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0106-1801  
(Only Those Sections With Amendments Are Shown.)

012. NOTIFICATION AND PAYMENT REQUIREMENTS.

01. Notification and Payment. (4-2-08)

a. If notice and payment of additional premium are required for dependent coverage under the health plan contract, the contract may require notice of birth, placement or adoption and payment of required premium as a condition of coverage for newborn and newly adopted children. The notification period shall be not less than sixty (60) days from the date of birth for a newborn child or, for newly adopted children, sixty (60) days from the earlier of the date of adoption or placement for adoption. The due date for payment of any additional premium, if required, shall be not less than thirty-one (31) days following receipt by the health plan member of a billing for the required premium. (4-2-08)

b. All requirements for notice and payment of premium applied by the health plan for the enrollment of newborn or newly adopted children shall be clearly set forth in the health plan contract and provided to the health plan members in a manner reasonably calculated to provide notice to the members of the requirements. (4-2-08)

c. If the health plan member fails to provide the required notification, or make the required premium payment, the health plan may decline to enroll a dependent child as a newborn or newly adopted child, but shall treat a newborn or newly adopted child no less favorably than it treats other applicants who seek coverage at a time other than when the applicant was first eligible to apply for coverage. (4-2-08)

d. For self-funded health care plans subject to Chapter 40 or 41, Title 41, Idaho Code, any references to premium in Section 012 of this rule should be recognized to be applying to contributions. ( )

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**18.01.23 – RULES PERTAINING TO IDAHO ACQUISITIONS OF CONTROL**  
**AND INSURANCE HOLDING COMPANY SYSTEMS**

**DOCKET NO. 18-0123-1801**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-3817, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking revises language in Subsection 027.01 regarding extraordinary dividends to be consistent with changes made to Section 41-3812, Idaho Code, following enactment of House Bill 454 in 2018.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Volume 18-7, page 132](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Nathan Faragher at [nathan.faragher@doi.idaho.gov](mailto:nathan.faragher@doi.idaho.gov), or (208) 334-4314.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the above contact and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

Dean L. Cameron  
Director Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0123-1801  
(Only Those Sections With Amendments Are Shown.)

027. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.

**01. Request for Approval.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following: (3-20-14)

a. The amount of the proposed dividend; (12-24-93)

b. The date established for payment of the dividend; (12-24-93)

c. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value, together with an explanation of the basis for valuation; (12-24-93)

d. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information: (12-24-93)

i. The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; (3-20-14)

ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding; (12-24-93)

iii. If the insurer is a life insurer, the net gain from operations for the twelve (12) month period ending the 31st day of December next preceding; ~~and~~ (3-20-14)( )

iv. If the insurer is not a life insurer, the net income less ~~net~~ realized capital gains for the twelve (12) month period ending the 31st day of December next preceding ~~and the two preceding twelve (12) month periods; and.~~ (3-20-14)( )

~~v. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years. (12-24-93)~~

e. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; and (3-20-14)

f. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. (12-24-93)

**02. Other Dividends.** Subject to Section 41-3812, Idaho Code, each registered insurer shall report to the Director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Subsections 027.01.d. (3-20-14)

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.24 – ADVERTISEMENT OF DISABILITY (ACCIDENT AND SICKNESS) INSURANCE

DOCKET NO. 18-0124-1801

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 025 of the rule states that the Director may require the filing of “direct response” advertising regarding disability accident and sickness policies. Some carriers, typically those seeking to sell limited benefit plans, object to filing advertising materials. This results in the Department sending a separate request for this material. The Department believes that it's appropriate to review any advertising material, and this change would streamline that communication and process. This rulemaking seeks to modify the rule to eliminate the reference to “direct response” advertising.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Volume 18-7, page 133](#).

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Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the above contact and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

Dean L. Cameron  
Director Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398



THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0124-1801  
(Only Those Sections With Amendments Are Shown.)

**025. FILING FOR PRIOR REVIEW.**

The Director may, at his discretion, require the filing ~~with this Department, for review prior to use,~~ of ~~direct response~~ any accident and sickness insurance advertising material for review prior to use. Such advertising material must be filed by the insurer with this Department not less than thirty (30) days prior to the date the insurer desires to use the advertisement. ~~(7-1-93)~~( )