

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives HOLTZCLAW, Anderson, Chew:

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

IDAPA 09.01.30 - Unemployment Insurance Benefits Administration Rules - Proposed Rule (Docket
No. 09-0130-2002).

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 09/25/2020. 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 10/23/2020.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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 Drafting Attorney - Matt Drake

DATE: September 08, 2020

SUBJECT: Department of Labor

IDAPA 09.01.30 - Unemployment Insurance Benefits Administration Rules - Proposed Rule (Docket No. 09-0130-2002)

Summary and Stated Reasons for the Rule

The Department of Labor submits notice of proposed rulemaking at IDAPA 09.01.30. The proposed rule replaces obsolete terminology with updated terminology, specifically with respect to the names of certain agencies and programs.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 72-1333, Idaho Code.

cc: Department of Labor
Patricia Fitzpatrick

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may 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 09 – IDAHO DEPARTMENT OF LABOR
09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES
DOCKET NO. 09-0130-2002
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 Title 72, Chapter 13, Section 1333, 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 16, 2020.

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:

- **09.01.30.125 – Alien Eligibility** – Replace outdated references to the federal Immigration and Naturalization Service with the federal department’s current title - U.S. Department of Homeland Security.
- **09.01.30.425 – New Claims** – Replace outdated references to “Idaho Works” with “American Job Centers.”

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(2), Idaho Code, negotiated rulemaking was not conducted because proposed changes have no effect on the rule and are for purposes of clean-up only.

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 the proposed rule, contact Josh McKenna, UI Benefits Bureau Chief, (208) 332-3570 x 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2020.

Dated this 14th day of August, 2020.

Josh McKenna, Bureau Chief
UI Benefits Bureau, Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
Phone: (208) 332-3570 x 3919.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 09-0130-2002
(Only Those Sections With Amendments Are Shown.)

125. ALIEN ELIGIBILITY.

~~01. Alien Eligibility. Benefits are not payable based on services performed by an alien unless the alien was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed. Ref. Sec. 72-1366(19), Idaho Code. (3-19-99)~~

021. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories at the time the work on which the claim is based was performed. ~~In addition, and~~ at the time benefits are claimed, the alien must have current, valid authorization to work from the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(4), (19), Idaho Code. (3-19-99)()

a. Permanent Residence. ~~The category of individuals who are “lawfully admitted for permanent residence,” includes a~~ Aliens who have been lawfully admitted to the United States as “immigrants” and those whose status has been adjusted from that of “non-immigrant” under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or “green card,” issued to each lawful permanent resident by the Immigration and Naturalization Service. (3-19-99)()

b. Performing Services. ~~The category of individuals who are “l~~awfully present for purposes of performing services” includes three (3) groups of aliens: (3-19-99)()

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (3-19-99)

ii. Legally-admitted non-immigrants who are granted a status by the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security which authorizes them to work in the United States during their stay; and (3-19-99)()

iii. Other aliens with ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security authorization to work in the United States regardless of their status. (3-19-99)()

c. Permanently Residing Under Color of Law. The category of individuals who are “permanently residing in the United States under color of law” includes the following groups of aliens: (3-19-99)

i. Refugees, asylees, and parolees, as identified in the Immigration and Nationality Act; (3-19-99)()

ii. Aliens presumed by the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security to be lawfully admitted for permanent residence; and (3-19-99)()

iii. Aliens who, after review of their particular circumstances under ~~INS~~ U.S. Department of Homeland Security statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security action to authorize an alien’s residence under “color of law,” the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security must know of the alien’s presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. (3-19-99)()

(BREAK IN CONTINUITY OF SECTIONS)

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When the Central Claims Office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the Central Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved is timely if filed during the same week or the next week after the claim is filed. (3-20-20)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date is the Sunday of the week in which the claimant first reported to the Central Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-28-18)

03. Filing of New Claims, Additional, and Reopen Claims. Intrastate and interstate claims, including, without limitation, new claims, additional claims, and reopen claims, may be filed electronically or by telephone at the Department's discretion. (3-20-20)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system or, if filing through an ~~Idaho Works location~~ **American Job Center**, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant completes the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an ~~Idaho Works location~~ **American Job Center** is effective as of the Sunday of the week of the date shown on the date/time stamp. (3-20-20)()

b. Interstate Claims. Any claim filed by an interstate claimant is accepted in the same manner and conditions for which claims are accepted from intrastate claimants. (3-20-20)

c. Telephone Claims. A claimant may also file a claim by calling the Central Claims Office. A claim filed via telephone is effective as of the Sunday of the week in which the claimant first calls the Central Claims Office to initiate the claim. (3-20-20)

d. Claimants' Electronic Verification. A unique confidential number or other electronic method of verification approved by the Department may be used by a claimant or an employer to submit information or engage in transactions with the Department through electronic or telephonic means. Use of this method of verification has the same force and effect as a manual signature. (3-20-20)

04. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants are required to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-20-20)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant is denied benefits until the information is provided. Any individual making a claim for benefits must provide the Department with: (3-20-20)

a. The claimant's legal name; (3-15-02)

b. The claimant's Social Security Number; (3-15-02)

c. The address where the claimant's mail is delivered; (3-15-02)

- d.** The claimant's place of last employment; (3-15-02)
- e.** The name, correct mailing address, dates of employment, and the reason for separation from all of the claimant's most recent and base-period employers; (3-20-20)
- f.** If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g.** The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h.** Other information necessary for the proper processing of the claim. (3-15-02)
- i.** Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess compliance with personal eligibility requirements. (3-20-20)
- j.** If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits are denied. (3-20-20)
- 08. Separation Notice.** (3-19-99)
- a.** Notice to Employer of Separation. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, must respond to the Department with the reasons for the separation whenever the claimant: (3-20-20)
- i.** Left his employment voluntarily; (3-19-99)
- ii.** Was discharged from his employment due to misconduct; (3-19-99)
- iii.** Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)
- iv.** Is not working due to a suspension; or (3-30-07)
- v.** Was separated for any other reason except lack of available work. (3-19-99)
- b.** Employer Response. The employer's response must be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)
- 09. Additional Claim or Reopened Claim.** A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. (3-20-20)
- 10. Use of Wage Credits.** All unemployment insurance wage credits from any source that are assignable to the state of Idaho will be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)
- 11. Valid Claim.** To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A and 72-1312, Idaho Code. (3-19-99)