



IDAHO INDUSTRIAL COMMISSION

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February 15, 2023

RE: In-State Adjusting Requirements

In November 2001, October 2009, May 2013, and June 2020, the Industrial Commission provided to all in-state adjusters a letter of advice, pointing out certain requirements for adjusters in the State of Idaho. Of particular emphasis were provisions requiring that adjusting decisions be made by in-state claims examiners.

In February 2023, the Idaho Legislature introduced legislation proposing removal of certain language from Idaho Code 72-305 interpreted to mean that each surety shall maintain "brick and mortar" offices located within the state. Given that some claim administrators have long been handling claims in Idaho exclusively from the residences of their employees located within the state of Idaho, the Commission believes some clarification is in order.

The following list, although not exclusive, illustrates areas of ongoing concern:

1. All aspects of handling and adjusting workers' compensation claims, including investigation and interviews, must be conducted by an Idaho licensed in-state adjuster or by an in-house in-state adjuster. In-state adjusters must have full decision-making authority, including but not limited to, acceptance or denial of claims, authorization of medical treatment, and payment of income benefits. Requiring the use of a toll-free number reaching an out-of-state individual to resolve issues involving any aspect of the handling of a claim is prohibited.
2. Neither Idaho Code 72-305 nor IDAPA 17.01.01.305 require that the in-state "office" or "offices" from which Idaho claims are adjusted must be a non-residential "brick and mortar" structure from which adjusters collectively work. The in-state adjusting requirement of statute and rule is satisfied where an insurance carrier, or third-party administrator, employs Idaho resident adjusters who work from home to service Idaho claims. Each claims adjuster, whether employed directly by the surety or working as a licensed, resident adjuster, must report to the Commission the physical location within the state of Idaho where claims handling will occur. In the case of a home office, the adjuster's private residential address need not be disclosed to the public; however, a valid in-state address shall be provided where service of legal documents may be accomplished.
3. Decisions on the medical management of workers' compensation claims must be made by the insurer through its in-state licensed adjuster or by an in-house in-state adjuster, and not by a case management nurse, whether they are inside or outside the state. This does not preclude adjusters from consulting with healthcare specialists or nurse case managers.
4. Written communication from medical providers and others involved in a claim and all forms and reports required by law or rule must be distributed through the in-state adjuster.



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5. All benefit checks must be signed and issued by the in-state adjuster unless the insurer has applied for and received an approved written waiver from the Industrial Commission allowing checks to be written out-of-state. A waiver allowing issuance of checks from an out-of-state source does not confer authority to adjust or handle any aspect of a workers' compensation claim from an out-of-state location. The waiver pertains to check issuance only.

6. If a waiver is granted for the issuance of benefits checks from a location outside the state of Idaho, the in-state adjuster must retain full authority and ability to do the following:

- a. Obtain instant access to the current electronic or computer payment history and records and the ability to reproduce such records in its in-state office;
- b. Complete the data input that results in the issuance of a benefit check.

7. "Fronting" will not be permitted. This includes but is not limited to the practice of maintaining an in-state adjuster who does not have full authority to make decisions regarding the acceptance or denial of claims, full authority over medical treatment and payment, and full authority to sign and issue checks, absent an approved waiver.

8. The worker must receive Change of Status notices within fifteen (15) days of the effective date of the change, copied immediately to the Commission, and, when applicable, a copy of the medical report that is the basis for the change must be attached to claimant's copy of the notice.

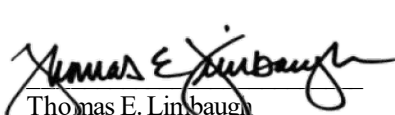
Complete information regarding the claims adjusting requirements for Idaho is available on the internet at the following site: www.iic.idaho.gov. There are links on this site to the Industrial Commission's Administrative Rules and to the Idaho Workers' Compensation Law.

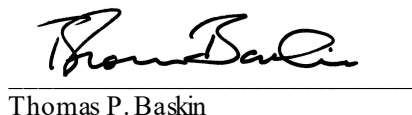
The above is not new law, but is an agency interpretation of existing law. Further questions can be directed to:

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We appreciate your cooperation and attention to these matters as we all strive to maintain the integrity of Idaho's excellent workers' compensation system.


Thomas E. Limbaugh
Chairman


Thomas P. Baskin
Commissioner


Aaron White
Commissioner