

Idaho

Idaho Department of Insurance
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Summary of Important Regulations

MEWA Regulations	No
TPA Regulations	Yes ¹
Stop-Loss Regulations	No
UR Regulations	No

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	Idaho Ins. Regs. 68	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	Idaho Ins. Regs. 18.01.71	None
Small Employer Health Insurance Availability Model Law	Idaho Code §§ 41-4701 to 41-4718; §§ 41-5201 to 41-5213	None
Model Regulation To Eliminate Unfair Sex Discrimination	None	None
Health Information Privacy Model Law	None	HB351
Preferred Provider Arrangements Model Law	None	None
Utilization Review Model Law	None	None
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	Idaho Code §§ 41-901 to 41-915	None
Stop-loss Insurance Model Law Idaho	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	None	None
Standard Group Health Model Law	None	Idaho Code §§ 41-2201 to 41-2210
Group Health Insurance Mandatory Conversion Law	None	None
Group Coverage Discontinuance/ Replacement Model Regulation	None	Idaho Code §§ 41-2211 to 41-2215
Premium Rates and Renewability of Coverage-Small Groups	Idaho Code §§ 41-4701 to 41-4716	None
Group Coordination of Benefits Model Law	Idaho Ins. Regs. 74	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	None
Group Health Mandatory Drug/ Alcohol Dependency Law	None	None
Model Newborn Children's Law	None	Idaho Code § 41-2140 § 41-2210
Health Examination Benefits Idaho	None	None

Availability Law

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	Idaho Code §§ 41-4201 to 41-4207	None
Agents and Brokers Licensing Model Law	None	Idaho Code §§ 41-1020 to 41-1079
MEWA Licensing Model Law	None	None
Managing General Agents Law	Idaho Code §§ 41-1501 to 41-1507	Idaho Ins. Regs. 64
Health Maintenance Organization Model Law	None	Idaho Code §§ 41-3901 to 41-3932
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	Idaho Code §§ 41-1301 to 41-1331	Bulletin 88.2
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	Idaho Ins. Regs. 51	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	None
Unfair Claims Settlement Practices Law	Idaho Code §§ 41-1329	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

State-Mandates

Benefits That Must Be Covered

- Breast reconstruction
- Cleft palate
- Emergency services
- Mammography screening
- Minimum maternity stays

Benefits That Must Be Offered

None

Persons Who Must Be Allowed Coverage

- Continuation/employees
- Conversion to non-group
- Handicapped dependents
- Newborns

Providers Who Must Be Covered

- Dentists
- Optometrists
- Podiatrists

Coordination of Benefits

- | | |
|----------------------------|-------------|
| • Birthday Rule? | No |
| • Divorced/Separated Rule? | specific |
| • Joint Custody Rule? | Guidelines |
| • Longer v. Shorter Rule? | have been |
| • Managed Care Rule? | promulgated |
| • COBRA Rule? | |
| • Preservation Rule? | |

Continuation or Conversion

None

Patient's Bill of Rights Legislation

None

Idaho

High Risk Health Pool

Yes – cap of 130%

External Grievance System

None

Prompt Payment of Health Claim Requirement

None

Commentary

Dependent Coverage

- Dependents covered from the moment of birth, including coverage for congenital defects or birth abnormalities.
- Dependents who are mentally rated or physically handicapped chiefly dependent on the participant and incapable of self-sustaining employment are covered, subject to periodic checks.
- Involuntary complications of pregnancy are covered without deductible, copayment, or exclusions.

MEWA Regulation

Idaho does not regulate MEWAs. Idaho would consider self-funded plans, operated as joint ventures by unrelated employers, and bogus collective bargaining plans to be MEWAs. To operate such constitutes unauthorized insurance.

TPA Regulations

Idaho adopted the NAIC Administrator Law in 1983. For violations, registration may be suspended or revoked, in addition to fines. There are no felony punishments.

- Taxes and fees – initial and renewal fees of \$100.
- Forms – TPA registration application.
- Records – six – (not five) year retention.
- Surety bond – bond of 10% of funds handled not less than \$5,000 not in favor of Commissioner, but rather in favor of insurers with whom the TPA does business.

License of TPA may be revoked or suspended if TPA violates law, is incompetent, untrustworthy, financially irresponsible, of poor repute, or has had an insurance license revoked by another state.

Idaho adopted its statute to provide reasonable supervision over self-funded plans, to set standards of financial soundness, and to protect the interest of the employees covered thereby. The legislation of Idaho declares the state's citizens deserve such protection.

Definitions. TPA beneficiary (covered person), director (Insurance Commissioner), contribution plan, trust fund and trustee are defined. Health benefits, not workers' compensation are covered.

Registration. All self-funded plans are to be registered, except for certain specific reasons:

- Benefits are the deductible (up to \$500) of a fully insured plan.

- Workers' compensation plans.
- Federally administered plans.
- Employer-provided first aid care.
- Plans that result from collectively bargaining if over 15 years in existence.

IMPORTANT: Registered plans are preempted from state insurance regulation and are not deemed to be *doing an insurance business*.

Qualifications for Registration. To be subject to qualification, the self-funded plan must meet these requirements:

- At least 500 covered persons (employees and dependents).
- Funding must be through a trust fund.
- Responsible trustee(s) and able TPA.
- Good booklets.
- Reasonable stop-loss insurance.
- Adequate safeguards and guarantees.

Application of Registration. The application will be a form furnished by the Idaho Insurance Department and properly executed. These items must be sent with the registration application:

- Trust agreement.
- Written statements of benefits.
- Certified trust financials.
- Statement of proposed income/outgo.
- Copy of an outside consultant study (if any).
- Other relevant items that the Insurance Department may reasonably require.

The Insurance Department will act on the application with reasonable promptness, considering the necessary investigations.

Trust Fund Powers. The trust fund shall be empowered (a) to have and to use an appropriate descriptive name, (b) to sue and be sued, (c) to contract in its own name, (d) to borrow money, and (e) to engage in all necessary and reasonable activities,

Trust Fund Liability. All plan benefits are the legal liability of the trust. Trust funds are fiduciary funds, not liable for any obligations of any employer-participant, nor are they subject to levy or garnishment for the obligation of any beneficiary.

Investment of Trust Funds. Only certain investments are to be permitted: examples are government securities, corporate bonds, *near cash*, etc. Several investments are prohibited: loans to employer-officers or parties in interest, real estate, or personal loans. Loans made in violation will be the responsibility of that person who so authorized them. Clear authority, in writing, of loan approvals is expected.

Reserves. Reserves appropriate to an actuary must be established for both the (a) in course of settlement, and (b) incurred but not reported reserves. Unearned contribution reserves shall be established for contributions paid less frequently than monthly. These two reserve items constitute the plan liabilities.

Records and Accounts. Trustees have the responsibility to see that full and accurate records are maintained. A GAAP statement shall be prepared within 60 days of the close of the trust year – certified by an accountant. This statement is delivered to the Insurance Commissioner.

Taxes. Each self-funded plan shall pay a tax of \$1 per month per covered person. The state of Idaho will not permit any political subdivision to tax the self-funder.

Examination and Audits. The Insurance Commissioner shall cause the trust fund to be audited for both financial and actuarial adequacy, as well as for compliance with the laws and other requirements.

The self-funder shall cooperate. The report shall be made expeditiously and delivered to the Insurance Department, where it shall be open to public disclosure. The self-funder pays the costs of the audit and report.

Trustee, Administrator, Board. The trustee and the administrator may be an individual or a corporation. The employer may be neither; however, an individual who is an employee of the employer may be either. Bonding of \$25,000 in favor of the trust fund shall be maintained; the Insurance Commissioner shall determine the exact bond amount.

Conflict of Interest. These approximate the ERISA party-in-interest and prohibited transaction rules. Specifically cited, however, is that the trust fund shall make no political contributions.

Recovery of Depleted Funds. The Insurance Commissioner will sue to recover any trust funds lost by a trustee's wrongful or negligent act or omission.

Termination of Registration. The Insurance Commissioner may unilaterally terminate a self-funded plan for any of these reasons:

- Insolvency of the trust.
- Failure to file papers and pay taxes.
- Any other reason, subject to judicial review.

Liquidation of Trust Fund. The liquidation shall be a plan submitted to, and approved by, the Insurance Commissioner. The plan shall be equitable to all parties; once approved it shall be binding in all of the parties. An insufficient trust fund shall be treated as insolvent insurer under Idaho laws. This means the Idaho Guaranty Fund, supported by other insurers and self-funders, would make up any shortages.

Rules and Regulations. The Insurance Commissioner may make reasonable rules and regulations necessary to administer the law; advance notice and hearings shall be made. For purposes of integrating the Idaho insurance and fraud laws, self-funders shall be deemed insurers.

Penalties. Penalties consist of either a fine (up to \$1,000) or imprisonment (up to one year) or both for certain acts:

- Willful violation of a law or regulation.
- False statement or representation.
- False statement on trust or other records.

Stop-Loss Regulation

None. Stop-loss agreements must be filed on an information only basis; insurance department approval is not required.

Utilization Review Regulations

None.

Miscellaneous

State Premium Taxes

Idaho taxes commercial insurers and Blue Cross at 1.4% if they invest in state securities, and 2.75% if they do not so invest. HMOs are taxed at \$.04 per enrollee per month.

Endnotes

¹ Idaho Code §§ 41-901 to 41-915.