

PROTECTING IDAHOANS

CONTINUING EDUCATION

DOI Law and Ethics in a COVID-19 World

Course #3194247

Dean L. Cameron, Director
Idaho Department of Insurance
www.DOI.Idaho.gov

PROTECTING IDAHOANS

STATUS AT THE DOI

DURING THE COVID-19 EMERGENCY

DOI business hours and activities remain unaffected

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STATUS AT THE DOI

- a. Company Activities (Examinations, Analysis, Licensing, including Continuing Education)
- b. Consumer Services (Consumer Affairs, SHIBA, Investigations)
- c. Market Oversight (New Realignment, Market Conduct, Rates and Forms)
- d. State Fire Marshal
- e. Administration

BEST COMMUNICATION OPTIONS

Phone issues for those working remotely.

Contact the DOI at (208) 334-4339 or agent@doi.idaho.gov

Idaho Official Resources for COVID-19: coronavirus.idaho.gov

DOI Main Website: doi.idaho.gov

DOI COVID-19 Resources: doi.idaho.gov/consumer/Health/COVID

DOI Producer FAQ's: doi.idaho.gov/Licensing/COVIDFAQ

DOI Business Interruption FAQ's: doi.idaho.gov/consumer/COVIDBIFAQ

Subscribe to DOI news updates: idoinews-owner@admws.idaho.gov

EXTRA EFFORTS OF THE DOI

- a. Continuing education webinars
- b. Weekly meetings with carriers
- c. Enhanced communication with association leadership
- d. Flexibility granted through bulletins and form approvals
 - i. for consumer benefits
 - ii. for premium reductions
- e. Filing extensions

COVID-19 IN IDAHO

COVID-19 in Idaho

*Data updated by 5:00 p.m. MT, 5/19/2020. State-level data will be updated by 5 p.m. MT **Monday through Saturday**. Data received after Saturday will be included in the update on Monday. Case data are based on surveillance system records provided by the public health districts. Public health district data will be updated on their agency website at their discretion and might differ from data presented here. *Data are preliminary and subject to change.*

2,476

Cases

(Total includes confirmed and probable cases)

21

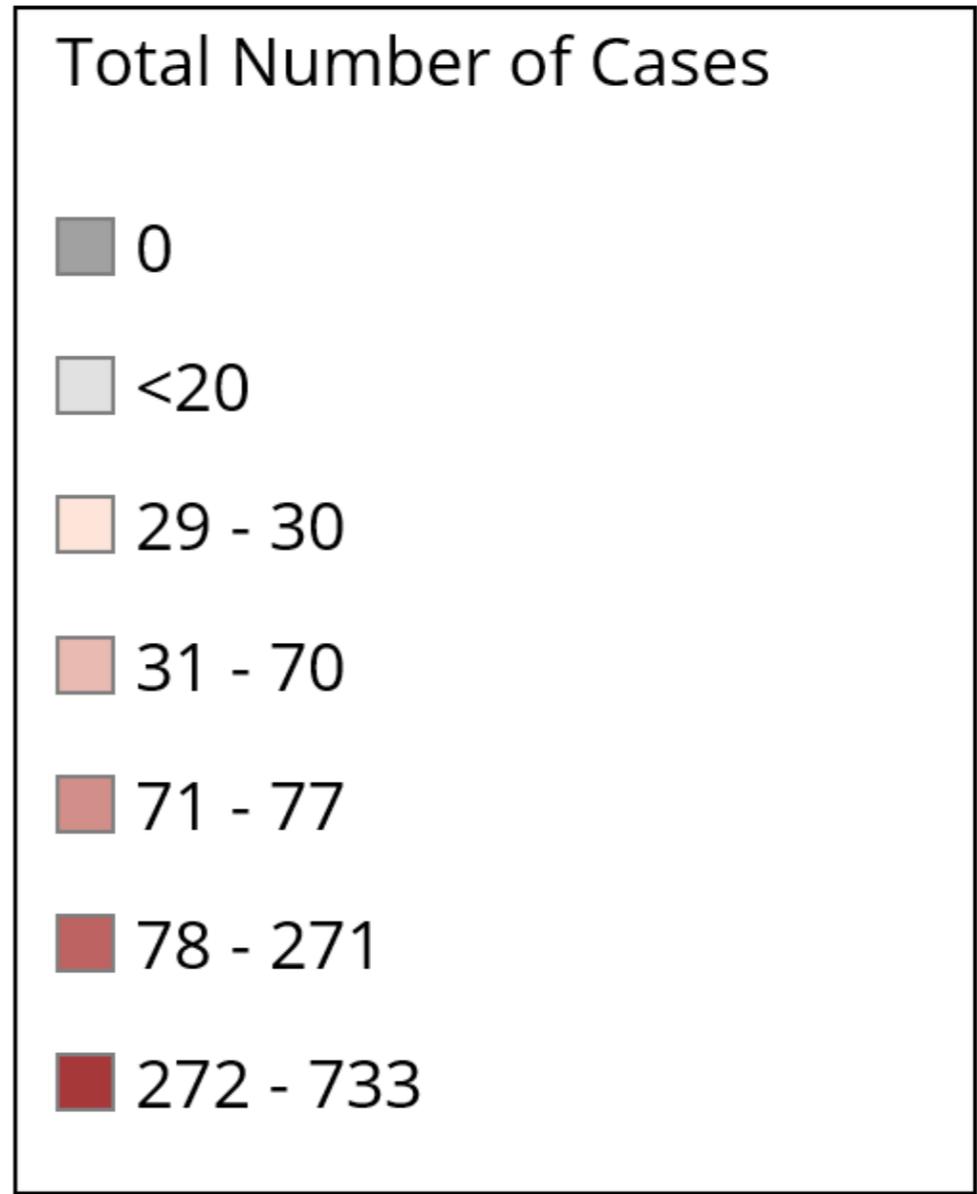
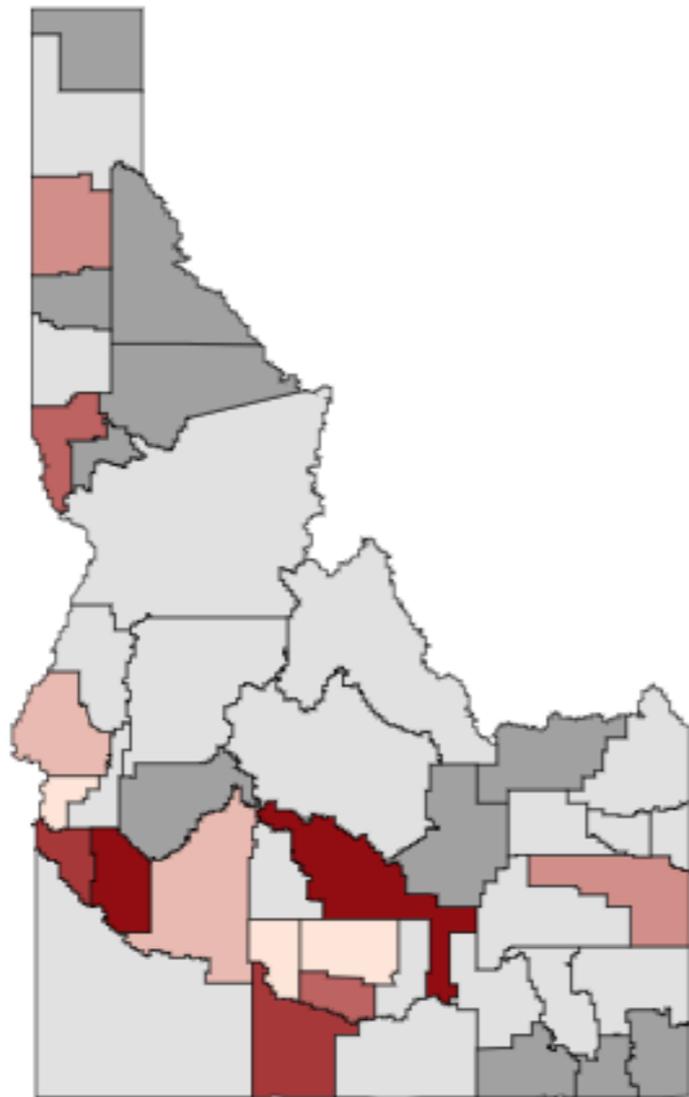
New Cases (Confirmed and Probable) Today
(5/19)

77

Deaths

Everyone should take precautions to avoid all respiratory diseases, including staying home if you're sick, avoiding sick people, and covering your coughs and sneezes with the crook of your elbow or a tissue.

COVID-19 BY COUNTY



<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/county-map.html?state=ID>

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STAY HEALTHY ORDER

(Previously the Stay-Home Order)

Governor Little issued a statewide [Stay-Home Order](#) on March 25, 2020 for the protection of all Idahoans during the COVID-19 pandemic.

a. Everything is being done according to CDC and the Epidemiologist Counsel to the working group and to the team.

i. Attempting to flatten the curve.

b. Insurance is essential

i. Specifically, “industry” or carriers

1. Still maintaining only essential functions

ii. Agents

1. Support the Governor’s stages for reopening

2. Work remotely - use technology

3. Avoid in-person contact except in an emergency

4. Respond to consumers, to your carriers and to the DOI

iii. Best Practices vs. Liability

4 STAGES OF REOPENING

IDAHO REBOUNDS



OUR PATH TO PROSPERITY

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Idaho Rebounds: Stage Two



May 16 – May 29

Every two weeks: Re-evaluation against criteria to determine feasibility to move from one stage to the next *****ALL CRITERIA MUST BE MET TO MOVE STAGES AND DATES ARE ESTIMATED TARGETS**

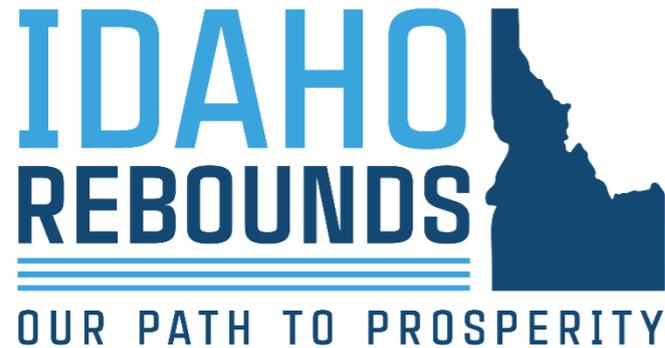
INDIVIDUAL	EMPLOYER	SPECIFIC TYPE EMPLOYER
<p>All vulnerable Idahoans should continue to <u>self-isolate</u>. Precautions should be taken to isolate from vulnerable residents.</p>	<p>Continue to encourage telework.</p> <p>Return employees to work in phases, if physical distancing, personal protections & sanitation are feasible.</p>	<p>Visits to senior living facilities and congregate facilities (jails, corrections, etc.) are prohibited and those employees and providers who do interact with residents and patients must adhere to strict protocols.</p>
<p>Gatherings, both public and private, of less than 10 people, where appropriate physical distancing and precautionary measures are observed can occur.</p>	<p>Employees who are considered vulnerable individuals should continue to self-quarantine. Special accommodations for these employees should be made in the workplace if they are unable to work from home.</p>	<p>Remain closed: Bars, nightclubs, movie theaters, large venues</p>
<p>Minimize non-essential travel and adhere to CDC guidelines.</p> <p>Continue the 14-day self-quarantine for people coming to Idaho and out-of-state visitors.</p>	<p>All open businesses continue to follow plans.</p> <p>Minimize non-essential travel and adhere to CDC guidelines regarding isolation following travel.</p>	<p>Can start opening with ability to meet protocols: Restaurant dining rooms, gyms, rec. facilities, salons, places of worship, daycares and organized youth activities and camps can reopen.</p>

Full details at <https://rebound.idaho.gov/stages-of-reopening/>

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Idaho Rebounds: Stage Three



May 30 – June 12

Every two weeks: Re-evaluation against criteria to determine feasibility to move from one stage to the next *****ALL CRITERIA MUST BE MET TO MOVE STAGES AND DATES ARE ESTIMATED TARGETS**

INDIVIDUAL	EMPLOYER	SPECIFIC TYPE EMPLOYER
<p>Vulnerable Idahoans can resume public interactions, but should practice physical distancing, minimizing exposure to social settings where distancing may not be practical, unless precautionary measures are observed.</p>	<p>Continue to encourage telework.</p> <p>Return employees to work in phases, if physical distancing, personal protections & sanitation are feasible.</p>	<p>Visits to senior living facilities and congregate facilities (jails, corrections, etc.) are prohibited and those employees and providers who do interact with residents and patients must adhere to strict protocols.</p>
<p>Gatherings, both public and private, of 10-50 people, where appropriate physical distancing and precautionary measures are observed can occur.</p>	<p>Employees who are considered vulnerable individuals should continue to self-quarantine. Special accommodations for these employees should be made in the workplace if they are unable to work from home.</p>	<p>Bars can open if they demonstrate ability to meet business protocols.</p> <p>Remain closed: Nightclubs, movie theaters, large venues.</p>
<p>Non-essential travel resumes to locations that allow it. Adhere to CDC guidelines regarding isolation following travel.</p> <p>Discontinue 14-day self-quarantine for people entering Idaho.</p>	<p>All open businesses continue to follow protocol.</p> <p>Non-essential travel resumes to locations that allow it. Adhere to CDC guidelines regarding isolation following travel.</p>	<p>Develop plans for operating with diminished standing room occupancy or limited physical distancing protocols in order to open in Stage Four.</p>

Full details at <https://rebound.idaho.gov/stages-of-reopening/>

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DOI ADJUSTMENTS

The Department has released **bulletins** granting unprecedented regulatory flexibility in certain areas for insurance companies and producers to help Idahoans retain and use their coverage.

DOI ADJUSTMENTS

Bulletin 20-01:

[Waiver of Eligibility and Premium Provisions](#)

- Individual and group plans
- Medical and dental flexibility
- Flexibility on premium deferral, premium holidays
- Grace period for individual plans
- Continuation of coverage
- Waiver of eligibility



DOI ADJUSTMENTS

Bulletin 20-02:

[Waiver of Pharmacy Policy Requirements](#)



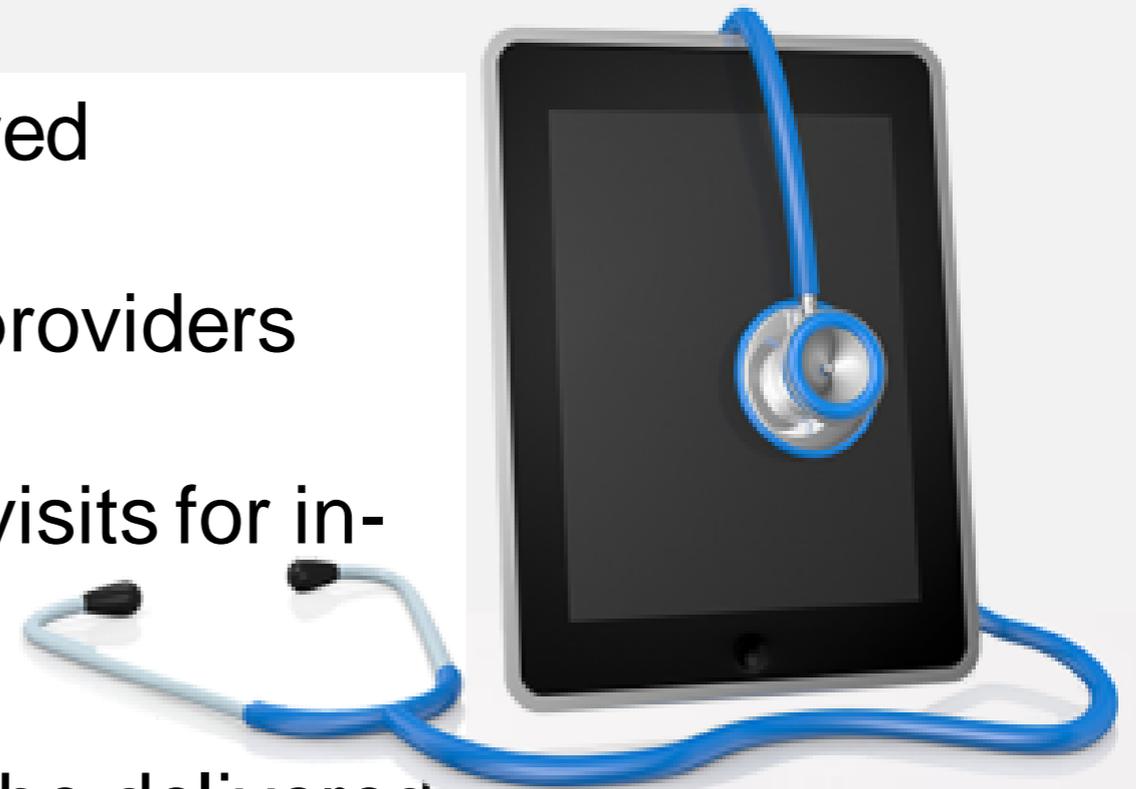
- Early refills
- 90-day supply
- Avoid in-person signature logs
- Subsequent audits

DOI ADJUSTMENTS

Bulletin 20-03:

[Waiver of Certain Telehealth Enforcement Requirements](#)

- Individual and employer sponsored
- Flexibility to expand in-network providers
- Provide coverage for telehealth visits for in-network providers
- Flexibility on how telehealth can be delivered
- Allow healthcare service providers to waive deductibles or cost-sharing for COVID-19

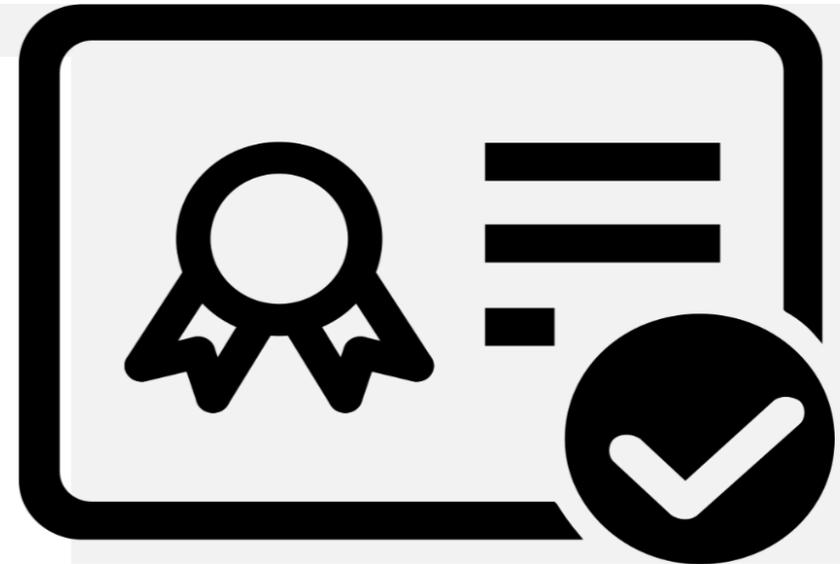


DOI ADJUSTMENTS

Bulletin 20-04:

[Provisional Producer Licenses](#)

- Implementation of provisional resident producer licenses
- Applicants use an alternative licensing examination
- Applicants must obtain a sponsor who is a licensed resident producer and assumes responsibility
- Provisional resident producers may apply for a producer license
- More info on the DOI website ([Producer FAQs](#))



DOI ADJUSTMENTS

Bulletin 20-05:

[Waiver of Property or Casualty Requirements](#)

- Waiver of fees, penalties, or other charges relating to the temporary inability to submit premium payments
- Extensions of grace periods for premiums payments
- Additional time before non-renewals or cancellation becomes effective
- Encouraging policyholders to use electronic payment methods
- Expanding automobile coverages to allow personal vehicles to be covered for essential services



DOI ADJUSTMENTS

Bulletin 20-06:

Financial Filing Flexibility

- Department notifies authorized insurers of flexibility re. compliance with regulatory requirements.
- Regulatory filing deadlines may be extended 30-days or 60-days from original deadline.
- Companies should submit a request for extensions if they believe filing deadlines cannot be met.
- Hard copy form submissions with original (wet) signature, certified mail and notary requirements are temporarily waived.
- On-site examinations during COVID-19 are temporarily waived.



DOI ADJUSTMENTS

Bulletin 20-08:

[Business Interruption Coverage](#)

- Provides expectations on how interruption claims should be handled.
- The DOI encourages policyholders to review their policies and to contact their agent or carrier to discuss coverage.
- Some policies may expressly exclude payment for damage caused by viruses or communicable diseases. Any given policyholder's loss may warrant review to determine applicability of specific exclusion language.
- DOI also posted the [Business Interruption Coverage FAQ page](#).



DOI ADJUSTMENTS

Bulletin 20-09:

Workers' Compensation

- DOI has accepted the National Council on Compensation Insurance's (NCCI) April 21, 2020 filing revisions for COVID-19.
- Revisions are effective March 1, 2020 and are valid through December 31, 2020.
- NCCI has established a rule defining "paid furloughed employees". In addition, it addresses the coding and reporting of payments made to those employees as well as the rate that will be charged for those payments (\$0.00).
- The filing further clarifies the definition of "idle time".
- The DOI also encourages employers to work with their agent or company representatives to see if change of classification is warranted because of a change in operations.



WAIVING CO-SHARING FOR TESTING, PHYSICIAN VISITS, AND TREATMENT



SHORT-TERM HEALTH INSURANCE CO-SHARING FOR TESTING, PHYSICIAN VISITS, AND TREATMENT

COMPANY	TESTING	PHYSICIAN VISITS	TREATMENT	COMMENTS
Blue Cross of Idaho Health Services Inc	WAIVED	WAIVED	WAIVED	Applies to existing or new member with no COVID-19 diagnosis prior to applying for coverage.
Companion Life Insurance Company	WAIVED	NOT WAIVED	NOT WAIVED	
Everest Reinsurance Company	NOT WAIVED	NOT WAIVED	NOT WAIVED	Testing, physician visits and treatment covered. Cost-sharing not waived at this time for any of the services.
Lifemap Assurance Company	WAIVED	WAIVED	NOT WAIVED	Anything further than visits subject to normal cost sharing per plan.
Independence American Insurance Company	WAIVED	WAIVED	NOT WAIVED	
SelectHealth Benefit Assurance Company	WAIVED	WAIVED	WAIVED	Cost-sharing for treatment is waived only if in-network.
Standard Life and Accident Insurance Company	WAIVED	NOT WAIVED	NOT WAIVED	Coverage provided for states requesting waiver of cost-sharing—no request from Idaho yet.



CURRENT ISSUES

Business Interruption Challenges

BUSINESS INTERRUPTION

1. Inclusion in coverage
2. Damage to the property
3. Exclusions
 - a) Viruses, communicable disease, pandemic
 - b) Governmental action
4. Unclear language
5. Legal action possibilities

Business Interruption

- According to USA Today, one in four, or approx. 7.5 million small businesses, face closure due to COVID-19.
- Many are discovering the “fine print” in policies exclude viruses.
- At least eight states are considering bills to require insurers to retroactively pay business interruption claims.
- The U.S. Chamber of Commerce said in a recent letter to lawmakers that allowing Congress or states to rewrite contracts to cover coronavirus losses is unconstitutional and would leave the insurance industry in ruins.
- Generally, viruses, such as the 2003 SARS epidemic, are excluded from business interruption policies.
- According to a poll of insurers in Washington state, only two of the 84 who responded offered pandemic coverage.
- STATUS: Pending. We could see court battles over the next few years.

CURRENT ISSUES

Special Enrollment Period (SEP)

SPECIAL ENROLLMENT PERIOD

Idahoans who have lost employer-sponsored health insurance as a result of termination, layoff, or furlough due to COVID-19 are eligible for an SEP.

Previously, this process required several steps of documentation and validation prior to enrollment. Under the new, relaxed policy, Idahoans can enroll with an SEP by attesting to a loss of employer health benefits as long as they submit valid documentation within 60 days.

This new process removes time-consuming barriers and ensures an expedited path to coverage.

Visit YourHealthIdaho.org

CARRIER CONCERNS ON SEP

1. Most who would want an SEP are already eligible for SEP or for Medicaid and may not know it - clarity and education are needed.
2. Loyal clients may end up paying extra due to new clients coming on board who may not stay with the carrier passed a few months.
3. Carriers established rates a year ago based on certain morbidity and claim assumptions. To change those assumptions mid-year creates problems.
4. Carriers are concerned about long-range costs. Will current enrollees be able to change plans mid-year?
5. Carriers are concerned about the precedent of doing an SEP for a medical issue. Instead, they encourage people to buy during open enrollment and use short-term plans to fill the gap.
6. Carriers are concerned about the ability and length of time it would take to mobilize. For example, Washington state just extended SEP after the initial 2 weeks.

ENROLLMENT NUMBERS

	APTC	Regular Medicaid	Medicaid Expansion	Total
1/29/2020	74,129	262,557	62,571	399,257
2/26/2020	73,365	265,675	65,458	404,498
3/4/2020	73,439	266,917	66,226	406,582
5/4/2020	71,953	274,749	73,852	420,554

Based on DHW, an extra 15,458 in Medicaid since March 4th.

Over 89,000 Idahoans signed up for 2020 coverage through the state insurance exchange on YourHealthIdaho.org



CURRENT ISSUES

Testing & Treatment of COVID-19 (incl. antibody tests)

CURRENT ISSUES

Telehealth



CURRENT ISSUES

State, Federal, and Legal Actions

ACA LAWSUITS

Seeking Risk Corridor Payments

*MAINE COMMUNITY HEALTH OPTIONS
v. UNITED STATES*

STATUS:

Supreme Court ruled in favor of the plaintiffs (April 2020). Carriers may seek unpaid risk corridor payments (estimated at \$12 billion) in Federal Claims Court.

ACA LAWSUITS

Constitutionality of the ACA

TEXAS v. UNITED STATES

STATUS:

Supreme Court scheduled to hear arguments during the October 2020 sitting. Lower court ruled that law is entirely invalidated because the tax penalty was removed. Appeals court agreed that the individual mandate is now unconstitutional but remanded the case to the lower court for more information on the severability issue and impact on the rest of the law.

ACA LAWSUITS

Challenging Short-Term, Limited Duration Regulation

ASSOCIATION FOR COMMUNITY AFFILIATED PLANS v. UNITED STATES DEPARTMENT OF THE TREASURY

STATUS:

Oral Arguments heard in Appeals Court on March 20, 2020. No decision yet. Lower court ruled in favor of the United States Department of Treasury (upholding the regulation).

Agents

Responsibilities and Areas for Improvement

Lincoln County insurance producer fined, loses license after pleading guilty to grand theft



On March 9, 2020, **Charlotte Sheppard** entered a plea of guilty, which was accepted by the District Court.

Ms. Sheppard violated Idaho Code § 41-1016(1)(d) and (h) on numerous occasions.

Ms. Sheppard was also charged with grand theft in the Fifth Judicial District Court in Lincoln County.

Ms. Sheppard continued to transact insurance and was using premium funds in her agency's fiduciary account to pay personal expenses. **The DOI ordered Ms. Sheppard to stop accepting any payments for insurance premiums and to cease all insurance business within the state of Idaho.**

The DOI revoked Ms. Sheppard's Idaho insurance producer license and imposed a \$51,000 fine. The preliminary order will become final on Friday, March 20, 2020.

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Responsibilities & Areas for Improvement

Professionalism, Integrity & Honesty

Title 41-1016

- (a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
- (b) Violating any provision of [title 41](#), Idaho Code, department rule, subpoena or order of the director or of another state's insurance director;
- (f) Being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;

Recent Administrative Action



Malorie J. Warner was an insurance producer for Aflac. While selling insurance, she filed fraudulent medical claims on behalf of herself and her immediate family. The state revoked her insurance license, and she was ordered to serve 15 days in jail, 100 hours of community service, and pay a \$500 fine. Warner was ordered to pay \$1,308 to the Department and \$750 to Aflac.

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Responsibilities & Areas for Improvement

Consumer Needs are Priority

Title 41-1016 & 1024

- (g) Admitting or being found to have committed any insurance unfair trade practice or fraud;
- (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;

41-1024. Reporting and accounting for premiums. (1) All fiduciary funds received or collected by a producer shall be trust funds received by the producer in a fiduciary capacity, and the producer shall, in the applicable regular course of business, account for and pay the same to the person entitled to the funds...

- 1. Responding to inquiries of consumers**
- 2. One size does not fit all**

Recent Administrative Action



Nampa insurance agent penalized \$46,000

By: Staff Writer
Posted: Sep 18, 2019 05:35 PM MDT
Updated: Sep 18, 2019 05:35 PM MDT



Bryce Joseph Vance, an insurance agent out of Nampa, lost his license and was fined \$46,000 for creating and submitting to an insurance company 46 applications for insurance without the knowledge, consent, or authorization of the consumers for whom the applications were submitted.

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Responsibilities & Areas for Improvement

Understanding Your Products, Your Carriers, and Contractual Language

Title 41-1016

(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

Recent Administrative Action

Insurance agent sentenced for misappropriating client money



EastIdahoNews.com staff

Local © Published at 11:42 am, February 1, 2018

Alan Rzeszutko pled guilty to insurance fraud when he diverted his customers' premium payments to his personal account. Mr. Rzeszutko was ordered to pay \$6,201 in restitution to Farmers Insurance, \$1,043 to the Dept. for investigative costs, a fine of \$750 and court costs of \$245. His producer's license was revoked by the Department in 2016.

Responsibilities & Areas for Improvement

Documentation of the Needs, the Recommendation and the Rational for the Customer's Choice

Title 41-1036

- (1) A producer holding a license under this chapter shall make available through his principal place of business complete records of transactions placed through or countersigned by the producer.
- (2) Records as provided in subsection (1) of this section shall include, but not be limited to:
 - (e) All disclosures made by a producer to an insured or to a prospective insured;
- (3) The records shall be kept available for inspection by the director for at least five (5) years after the creation or the completion, whichever is later, of the respective transactions. The records may be maintained off-site and in electronic form if the records can be made available for inspection through the producer's principal place of business upon reasonable notice by the director.

Recent Administrative Action

Insurance agent from Eagle loses license

By IDAHO PRESS STAFF newsroom@idahopress.com Sep 19, 2019



Example: Stacia Ann Royster, an insurance agent in Eagle had her license revoked and was penalized \$7,000 for failing to maintain records of insurance transactions made under her signature. She allowed an unlicensed individuals to submit an application under her signature.

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CE INSTRUCTIONS

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A questionnaire will be sent to you.
Please fill out the form and return it.

Questions?

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