

TITLE 72

WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 13

EMPLOYMENT SECURITY LAW

72-1349B.FINANCING OF BENEFITS PAYMENTS BY PROFESSIONAL EMPLOYERS AND THEIR CLIENTS. (1) Nonprofit organizations and governmental entities excepted.

Financing of benefits for workers assigned by a professional employer to a nonprofit organization or a governmental entity shall be paid as provided in section 72-1349A, Idaho Code. Financing of benefits for workers assigned by a professional employer to any entity other than a nonprofit organization or governmental entity shall be made in accordance with the provisions of this section.

(2) Professional employer organizations. A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, chapter 24, title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by section 72-1349B, Idaho Code.

(3) Transferring experience rate to professional employer organizations. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client.

(4) Joint transfer applications. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer organization, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer organization, and no partial transfers of experience factors or the experience rate shall be allowed.

(5) Reporting workers in professional employer organization arrangements. If some of the client's workers are included in the professional employer organization arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer organization arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the department, which shall list or include all the client's workers whether or not included in the professional employer organization arrangement.

(6) Meeting coverage requirements. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of this chapter if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements.

(7) Liability for contributions. Unless a professional employer meets the minimum

requirements of this chapter, its client shall remain liable as a covered employer for any payments due under the provisions of this chapter. During the term of a professional employer arrangement, a professional employer is liable for the payment of all moneys due pursuant to this chapter as a result of wages paid to employees assigned to a client company, except compensation paid to sole proprietors or partners in the client company.

(38) Joint and several liability. A client is jointly and severally liable for any unpaid moneys due under the provisions of this chapter from the professional employer for wages paid to workers assigned to the client.

(49) Reporting requirements. The professional employer shall report and make all payments under its state employer account number. The professional employer shall keep separate records and submit separate quarterly wage reports for each of its clients. The professional employer shall pay contributions for its clients collectively using the professional employer's contribution rate unless it elects to pay the contribution for certain clients individually in which instance the contribution shall be paid using the individual client's contribution rate.

(10) To report the wages and employees covered by the professional employer organization arrangement between a professional employer organization and client, professional employer organizations and their clients shall make reports to the department in one (1) of the following ways, subject to any conditions in rules promulgated by the department:

(a) Report the workers included in the professional employer organization arrangement under the employer account number of the professional employer organization and transfer the rate of the client to the professional employer organization; or

(b) Report the workers included in the professional employer organization arrangement under the employer account number of the client without an experience rate transfer.

(511) Interested party. As between a professional employer and its client, the professional employer company shall be deemed to be the interested party for purposes of section 72-1323, Idaho Code, and all proceedings to determine rights to benefits under the provisions of this chapter.

(612) Temporary workers. The provisions of this section do not apply to an entity that provides temporary workers on a temporary help basis, provided that the entity is liable as the employer for all payments due under the provisions of this chapter as a result of wages paid to those temporary workers.

(713) Rebuttable presumption. When a professional employer assigns workers to only one (1) client and its affiliates, there is a rebuttable presumption that the client entered into a professional employer arrangement to avoid calculation of the proper taxable wage rate. If the professional employer fails to rebut this presumption, the director, pursuant to section 72-1353, Idaho Code, shall issue an administrative determination of coverage holding the client to be the covered employer for purposes of this chapter.

(814) A client ceasing to pay wages. Whenever a client ceases to pay wages, such client shall be subject to termination of its employer account and experience rating records in the same manner as any other employer, in accordance with the provisions of sections 72-1351 and 72-1352, Idaho Code. If a client which has ceased to pay wages subsequently becomes subject to this chapter because it resumes paying wages, it will be assigned the appropriate experience rate in accordance with the provisions of section 72-1351, Idaho Code.

(915) Succession of experience factors. Whenever a professional employer arrangement is entered, the separate account and experience factors of payroll and reserve shall be transferred to the professional employer for the purpose of determining the professional employer's contribution rate to be paid on behalf of the client. Upon the expiration or termination of the professional

employer arrangement, so much of the professional employer's separate account and experience factors of payroll and reserve as is attributable to the client shall be transferred to the terminating client for the purpose of determining the client's subsequent rate of contribution. In the event the professional employer elects to pay the client's contribution separately as provided in subsection (49) of this section, then the client's experience factors of payroll and reserve shall remain with the client employer for the duration of the professional employer arrangement.

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134.PROFESSIONAL EMPLOYER ORGANIZATIONS.

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code.

01.Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule:

a.Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or

b.Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Section 72-1349B, Idaho Code.

02.Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Section 72-1351(5), Idaho Code.

03.Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Section 72- 1349B, Idaho Code.

04. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Section 72-1349B, Idaho Code.

05. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements.