

TITLE 41
INSURANCE

CHAPTER 60
IMMUNIZATION ASSESSMENTS [EFFECTIVE UNTIL JULY 1, 2029]

41-6001. LEGISLATIVE INTENT. [EFFECTIVE UNTIL JULY 1, 2029] The intent of the legislature is to provide a supplemental funding mechanism for the Idaho immunization program administered by the Idaho department of health and welfare, by creating a dedicated vaccine fund and an independent board, which board is empowered to assess fees from all carriers. The chapter's goal is to ensure access to childhood vaccinations in Idaho, by decreasing costs and enabling the maintenance of a single distribution of vaccines available to health care providers in Idaho who administer the vaccines to program eligible children.

[41-6001, added 2010, ch. 32, sec. 1, p. 60.]

41-6002. DEFINITIONS. [EFFECTIVE UNTIL JULY 1, 2029] As used in this chapter:

(1) "Board" means the Idaho immunization assessment board created by section [41-6003](#), Idaho Code.

(2) "Carrier" means: any entity subject to regulation by the department that provides or is authorized to provide health insurance or health benefit plans, or that administers health insurance or health benefit coverage or that otherwise provides a plan of health insurance or health benefits; or a foreign insurer who provides health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state. For purposes of this chapter, the term "carrier" includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, entities that provide excess or stop-loss insurance, and persons or entities required to be registered with the director under [chapter 9, title 41](#), Idaho Code. For the purposes of this chapter, the term "carrier" does not include an entity that only issues policies, certificates or subscriber contracts within the state of Idaho that are limited to a specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(3) "Director" means the director of the department of insurance of the state of Idaho.

(4) "Fund" means the Idaho immunization dedicated vaccine fund created in section [41-6007](#), Idaho Code.

(5) "Idaho immunization program" means that program administered by the Idaho department of health and welfare to provide vaccinations against diseases to Idaho children consistent with Idaho and federal law.

(6) "Plan of operation" means the plan of operation of the fund as established by the board.

(7) "Program-eligible child" means any child, natural or adopted, who is under nineteen (19) years of age, whose custodial parent or legal guardian

resides in Idaho and who is not eligible for the federal vaccines for children program.

(8) "Vaccine" means any preparations of killed microorganisms, living attenuated organisms or living fully virulent organisms that are approved by the federal food and drug administration and recommended by the federal advisory committee on immunization practices of the centers for disease control and prevention.

(9) "Vaccines for children" program is that federally funded program that provides vaccines at no cost to eligible children pursuant to section 1928 of the social security act.

[41-6002, added 2010, ch. 32, sec. 1, p. 60; am. 2010, ch. 187, sec. 1, p. 399.]

41-6003. IDAHO IMMUNIZATION ASSESSMENT BOARD. [EFFECTIVE UNTIL JULY 1, 2029] (1) There is hereby created in the Idaho department of insurance the Idaho immunization assessment board. The board will perform an essential governmental function in the exercise of powers conferred upon it by this chapter and shall be a governmental entity within the meaning of [chapter 9, title 6](#), Idaho Code.

(2) The board shall consist of ten (10) members and one (1) ex officio member:

(a) Seven (7) members shall be appointed by the director and serve at the pleasure of the director. In selecting the members of the board, the director shall appoint:

- (i) Three (3) members representing carriers, one (1) of whom shall represent administrators or third-party administrators;
- (ii) One (1) primary care physician licensed and practicing in Idaho; and
- (iii) Three (3) members representing the Idaho business community, one (1) of whom shall represent a private self-funded insurance plan;

(b) One (1) member appointed by the director of the department of health and welfare;

(c) One (1) member shall be a member of the senate, appointed by the president pro tempore of the senate;

(d) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives; and

(e) The director or the director's designated representative shall serve as an ex officio eleventh member of the board.

(3) The initial board members appointed by the director pursuant to subsection (2) (a) of this section shall be appointed as follows: Legislative members of the board shall serve for a term of two (2) years.

(a) Two (2) members, as determined by the director, shall serve an initial term of two (2) years;

(b) Two (2) members, as determined by the director, shall serve an initial term of three (3) years; and

(c) One (1) member, as determined by the director, shall serve an initial term of four (4) years.

Subsequent board members appointed by the director pursuant to subsection (2) (a) of this section shall serve for terms of three (3) years.

(4) A vacancy on the board appointed by the director pursuant to subsection (2) (a) of this section shall be filled by the director. A vacancy in a

legislative member's position on the board shall be filled in the same manner as the original appointment.

(5) Except for employees of the state of Idaho, members of the board shall not receive compensation or reimbursement for expenses for their service on the board. Employees of the state of Idaho serving on the board shall be reimbursed for their vouched expenses associated with their service on the board in a manner consistent with policy for other state employees.

[41-6003, added 2010, ch. 32, sec. 1, p. 61; am. 2018, ch. 32, sec. 1, p. 59.]

41-6004. PLAN OF OPERATION. [EFFECTIVE UNTIL JULY 1, 2029] (1) The board shall submit to the director a plan of operation and thereafter any amendments thereto. The plan of operation, and any amendments thereto, shall become effective upon written approval by the director. If the board fails to submit a suitable plan of operation, the director shall adopt and promulgate a temporary plan of operation.

(2) The plan of operation shall:

- (a) Identify methodology and procedures for determining assessments to the carriers that are fair and equitable;
- (b) Establish procedures for the director to collect assessments from carriers to fund vaccine purchases by the state of Idaho; and
- (c) Provide for any additional matters necessary for the implementation and administration of the fund.

(3) Administrative cost associated with the creation and amending the plan of operation shall be paid out of the fund.

[41-6004, added 2010, ch. 32, sec. 1, p. 61.]

41-6005. POWER AND LIABILITY OF THE BOARD. [EFFECTIVE UNTIL JULY 1, 2029] (1) The board shall have the power to:

- (a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including contracts for administrative services;
- (b) Determine the method of assessment and assess carriers in accordance with the provisions of section [41-6006](#), Idaho Code;
- (c) Require carriers to provide to the board such statements and reports the board deems necessary to fulfill its duties under this chapter;
- (d) Establish policies and procedures as may be necessary or convenient for the implementation of this chapter and the operation of the assessments authorized by this chapter; and
- (e) Consult with the Idaho department of health and welfare and other experts as the board may deem appropriate as necessary or proper to carry out the provisions and purposes of this chapter.

(2) Neither the board nor its members shall be liable for any obligations of the vaccine assessments. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. Participation by a carrier in the assessments authorized by this chapter or on the board under the provisions of this chapter shall not be grounds for any legal action, criminal or civil liability, or penalty

against the fund or any of its carriers or board members, either jointly or separately.

[41-6005, added 2010, ch. 32, sec. 1, p. 62; am. 2011, ch. 121, sec. 1, p. 331.]

41-6006. ASSESSMENTS. [EFFECTIVE UNTIL JULY 1, 2029] (1) The department of health and welfare shall report to the board on or before January 1 the total number of program-eligible children in the Idaho immunization reminder information system registry who received vaccines, the doses and the total nonvaccine-for-children funds expended for vaccines purchased and administered through the Idaho immunization program for the previous state fiscal year and any other information appropriate or necessary to enable the board to properly determine assessments under the provisions of this chapter.

(2) The assessments to fund vaccine purchases for program-eligible children shall be made annually by the board. Each carrier's proportion of the assessment and the dates upon which the carrier must pay the assessment into the fund shall be determined by the board based on annual statements and other reports deemed necessary by the board. In making the assessment determination, the board shall consider such factors as any surplus funds remaining from a prior assessment, the number and cost of vaccine doses expected to be administered in the pertinent time period and the number of program-eligible children in the pertinent time period, as well as any necessary costs and expenses to administer the fund and discharge the duties of the board. The annual assessment shall be calculated to provide funding that, at a minimum, is expected to be sufficient to cover the administrative costs of the board and fund the purchase of vaccines for program-eligible children that have in effect a recommendation from the advisory committee on immunization practices of the centers for disease control and prevention on the date the board makes its assessment determination.

(3) For late or nonpayment of assessments by a carrier, the director may impose such penalties as provided in [title 41](#), Idaho Code.

(4) Except as otherwise provided in this subsection, a carrier shall pay an assessment made by the board within sixty (60) days of the notice of assessment being sent to the carrier. For good cause, a carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment if the director determines that the payment of the assessment would place the carrier in a financially impaired condition, as provided in [title 41](#), Idaho Code. If all or part of an assessment against a carrier is deferred, the amount deferred shall be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving the deferment shall remain liable to the fund for the amount deferred and shall be prohibited from insuring any new individuals in the state of Idaho until such time as it pays the assessments.

(5) The moneys raised by the assessment authorized in this section shall be used solely for the purposes expressly authorized by this chapter.

[41-6006, added 2010, ch. 32, sec. 1, p. 62; am. 2011, ch. 121, sec. 2, p. 331; am. 2018, ch. 32, sec. 2, p. 60.]

41-6007. IDAHO IMMUNIZATION DEDICATED VACCINE FUND. [EFFECTIVE UNTIL JULY 1, 2029] There is hereby created in the state treasury the Idaho immu-

nization dedicated vaccine fund. Moneys in the fund shall be appropriated solely for purposes established by this chapter. All funds in excess to the cost required to perform the administrative functions required under this chapter shall be paid to the Idaho department of health and welfare for the sole purposes of purchasing vaccine for use in the Idaho immunization program. Any moneys in excess of the amount needed to fund the Idaho immunization program for a given period shall be retained by the Idaho department of health and welfare to be used to fund the program in subsequent periods, including a subsequent period after the date this chapter is no longer in effect. The fund and any assessments imposed or collected pursuant to the operation of the fund shall at all times be free from taxation of every kind.

[41-6007, added 2010, ch. 32, sec. 1, p. 63; am. 2011, ch. 121, sec. 3, p. 332.]

41-6008. RULEMAKING AUTHORITY. [EFFECTIVE UNTIL JULY 1, 2029] Upon consultation with the board, the director shall have the authority to promulgate rules necessary to implement this chapter.

[41-6008, added 2010, ch. 32, sec. 1, p. 63.]