1. **Does your jurisdiction maintain a collateral source rule?**

   Yes, Idaho maintains a collateral source rule. Under Idaho Code section 6-1606, “[i]n any action for personal injury or property damage, a judgment may be entered for the claimant only for damages which exceed amounts received by the claimant from collateral sources such as compensation for the personal injury or property damage, whether from private, group or governmental sources, and whether contributory or noncontributory.” Specifically, the statute mandates that a tortfeasor is liable only for those damages that remain after most forms of collateral source payments have been taken into account.

   The statute excludes the following benefits from consideration as a collateral source:

   - Benefits paid under a federal program which by law must seek subrogation;
   - Death benefits under an insurance contract;
   - Benefits paid by certain service corporations; and
   - Benefits paid which are recoverable under subrogation rights created under Idaho law or by contract.

   Idaho Code § 6-1606.

   Evidence regarding collateral sources must be withheld until after a verdict is entered. *Id.* Following a verdict, the court may consider such evidence to determine the proper offset to the award.

2. **Does your jurisdiction allow plaintiff to recover for expenses written off by the healthcare provider?**

   Idaho does not allow plaintiffs to recover expenses written off by the healthcare provider. In *Dyet v. McKinley*, 139 Idaho 526 (2003), the Idaho Supreme Court held that Idaho Code section 6-1606 applies to prevent plaintiffs from recovering the amount of a Medicare write-off from a tortfeasor so as to prevent a double recovery. The court explained that, although the write-off is not technically a collateral source, “it is the type of windfall that Idaho Code section 6-1606 was designed to prevent.” The write-off is “not an item of damages for which plaintiff may recover because plaintiff has incurred no liability therefore.”
The Court revisited Dyet in Slack v. Kelleher, 140 Idaho 916 (2004). In Slack, the court held that the district court erred when it denied defendant’s post-judgment motion seeking to have the medical expense award reduced due to Medicare write-offs under Idaho Code section 6-1606. The court remanded the matter for the district court to reduce the judgment by the appropriate amount of the write downs. Id.

3. Must a plaintiff prove medical services were reasonable or necessary in order to recover?

In Idaho, the Plaintiff has the burden of proving the reasonable value of necessary medical care received and expenses incurred as a result of the injury. Ordinarily, testimony by a patient or by a physician or health care provider on amounts charged or paid for medical services is sufficient evidence of reasonable value of the services in the absence of some showing to the contrary. Van Brunt v. Stoddard, 39 P.3d 621 (Idaho 2001). Additionally, the plaintiff must also prove that the injuries and resulting medical expense incurred after the accident were proximately caused by the injuries received in the accident. Id.; see also Farmer v. Int'l Harvester Co., 97 Idaho 742, 745 (1976).

4. Must a plaintiff guarantee reimbursement payment to a healthcare provider if a judgment is rendered or settlement achieved?

Idaho’s lien statutes allow hospitals, nursing care providers, and other entities licensed to practice medicine to file a lien “for the reasonable charges for . . . care, treatment, and maintenance of an injured person . . . on account of injuries” caused by another person. Idaho Code § 45-701 et seq. Notably, the statutes do not allow the health care provider to file or enforce a lien against the patient’s personal or real property. See Idaho Code § 45-701. Instead, the lien gives the health care provider a right to recover against the entity causing the patient’s injuries and/or to be paid from any personal injury judgment or settlement due the patient. Id. In order to perfect the lien, the healthcare provider must file the lien in the office of the recorder of the county in which the provider rendered the services. Idaho Code § 45-704B. The lien must be filed within 90 days after the last date of medical services for the injury. Id. The health care provider then has 2 years from the time the lien was filed to bring a suit to enforce the lien. Idaho Code § 45-704. The healthcare provider’s right to sue to enforce its lien is not dependent on the injured person asserting claims. Saint Alphonsus Regional Medical Center v. Bannon, 128 Idaho 41 (1995). Thus, if a tortfeasor settles with the injured party without considering or accounting for valid liens, they risk being forced to pay for medical damages twice.

5. If an insurance carrier maintains a contractual agreement with a healthcare provider that reduces payments, what can a plaintiff “blackboard” as damages? (i.e., what effect does a pre-existing agreement between an insurance carrier and healthcare provider have on a plaintiff’s ability to recover medical bills?)

In Dyet, the Idaho Supreme Court upheld the decision of the District Court to allow plaintiff to present the unadjusted amount of medical bills to the jury. Dyet, 139 Idaho at 531. Accordingly,
under the Court’s decision in *Dyet*, plaintiffs are allowed to “blackboard” the full unadjusted amount of medical bills as damages. *Dyet*, 139 Idaho at 531. The actual amount paid by an insurance carrier to a healthcare provider would then be considered after a judgment is rendered and the award would be adjusted accordingly. *Id.* See Also, *Joseph v. Robrahm*, 2015 WL 4545752 (2015).

This section of the Compendium was prepared by an attorney not licensed in the State of Idaho. Although the attorney used his/her best efforts to set forth the current law, users of this section of the Compendium should rely solely on counsel licensed in the State of Idaho.