

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ARTHUR MYERS,)	
)	
Claimant,)	
)	
v.)	IC 01-008270
)	
QWEST,)	
)	
Employer,)	ORDER ON
)	RECONSIDERATION
)	
and)	
)	
RELIANCE NATIONAL INDEMNITY CO.,)	Filed March 16, 2006
)	
Surety,)	
Defendants.)	
_____)	

Pursuant to Idaho Code § 72-718, Claimant Arthur Myers timely moves for reconsideration of the Order entered by the Industrial Commission on December 29, 2005. Claimant repeats his previous assertion that his Parkinson’s disease was caused by work. He requests the Commission review additional evidence that he argues links Parkinson’s disease to certain pesticides that he used while working for Employer. Defendants filed a motion to strike certain factual assertions made by Claimant as a violation of Rule 10, J.R.P. Defendants also filed a timely motion to reconsider the Commission’s Order. Defendants submit it would be in the interest of judicial economy for the Commission to adopt the entire recommendation of the referee instead of limiting the Order to the issue of notice.

Regarding Claimant’s motion, he continues to argue that his condition was caused by his work activities. The new information that he seeks to submit is an attempt to bolster his

causation argument. Unfortunately, Claimant's claim for benefits fails before ever reaching a determination of causation.

Claimant maintains that he knew his anxiety, depression, and related conditions were caused by his employment the final day he worked on February 9, 1998. He testified during deposition that he immediately told his boss that he was "not able to come to work that day, because I was stressed out and was not capable of working." Arthur Myers deposition, p. 10. Dr. Sanford drafted a letter in June 1998 indicating Claimant's primary concern was his job status. He went on to note that "it appears as though his most recent position has contributed substantially to his panic attacks." Defendants' Exhibit 5. Dr. Novak noted in March 1998 that Claimant was experiencing an increase in problems "mainly related to work stress." Defendants' Exhibit 6. At hearing, Claimant's wife acknowledged that no workers' compensation claim was filed with Employer because they didn't think a claim could be filed for stress. Hearing Transcript, p. 247. It is clear from the record that Claimant began relating his conditions to his employment in 1998.

The Idaho Supreme Court recently addressed the definition of "manifestation." The Court classified the term as subjective.

The employee must know that he has an occupational disease or have been so informed by a qualified physician. In addition, the knowledge required is that he has an occupational disease, not that he has symptoms that are later diagnosed as being an occupational disease. Knowledge of symptoms is not synonymous with knowledge the symptoms are caused by an occupational disease.

Sundquist v. Precision Steel & Gypsum, Inc., 141 Idaho 450, ___, 111 P.3d 135, 139 (2005).

Although Claimant admits knowing as far back as 1998 that his conditions were related to his employment (manifestation of his alleged occupational disease), he did not report any work-related condition or pursue any recovery through Employer until February 2001, when he sent

them a hand-written note stating he became sick on the job. Claimant's recollection that he told the office he was stressed out and not able to work does not amount to notification that he was suffering from an occupational disease. Claimant did not meet notice and filing deadlines and his claim is, therefore, barred. Idaho Code § 72-448(1).

Accordingly, Claimant's motion for reconsideration should be, and is hereby, DENIED. The denial of Claimant's motion renders Defendants' motion to strike moot.

Defendants request reconsideration and submit that it would be in the interest of judicial economy for the Commission to adopt the entire recommendation of the referee instead of simply the notice analysis and conclusion in its Order. We disagree. Our policy of declining to address moot issues is consistent with notions of judicial restraint. It is unnecessary to issue what amounts to an advisory opinion about matters that are not yet ripe for decision. We can and will address the merits of Claimant's case if it becomes necessary. An opinion that unnecessarily exposes Claimant's medical and social history is inappropriate at this stage.

Therefore, Defendants' request for reconsideration should be, and is hereby, DENIED.

DATED this 16th day of March, 2006.

INDUSTRIAL COMMISSION

/s/ _____
Thomas E. Limbaugh, Chairman

/s/ _____
James F. Kile, Commissioner

/s/ _____
R.D. Maynard, Commissioner

ATTEST:

/s/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the _16_ day of ___March_, 2006, a true and correct copy of the foregoing **ORDER ON RECONSIDERATION** was served by regular United States Mail upon each of the following persons:

ARTHUR MYERS
3620 N PEPPERWOOD
BOISE ID 83704

THOMAS P BASKIN
PO BOX 6756
BOISE ID 83707-6756

____/s/_____