

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

RICHARD BASS,

Claimant,

v.

DEPARTMENT OF HEALTH & WELFARE,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Petitioners/Defendants.

**IC 2014-034327
(2015-000110)**

**ORDER ON PETITION FOR
DECLARATORY RULING**

Filed September 4, 2015

The Idaho Industrial Commission (“the Commission”) received Defendants’ Petition for Declaratory Ruling on July 8, 2015. Defendants contemporaneously filed a Memorandum in Support and the Affidavit of Lorie Vega. Defendants request a ruling on the applicability of Idaho Code § 20-412 to the facts of this case and if it bars any recovery under Title 72 of the Idaho Code. Claimant did not file a response.

JRP 15 specifies under what circumstances it is appropriate for the Commission to entertain a petition for declaratory ruling. The rule provides that such petition may be filed by any person who has an actual controversy “over the construction, validity, or applicability of any workers’ compensation statute”. The rule further requires that Petitioner have an interest that is directly affected by the statute. The Commission may decline to entertain the petition for good cause, including the Commission’s conclusion that the issue is best determined in other proceedings. *See* JRP 15(f)(4).

The statute discussed in Defendant's petition specifies in relevant part that "[n]o inmate engaged in productive work as authorized by this chapter shall be entitled to worker's compensation benefits or unemployment compensation under chapter 4 or chapter 13, title 72, Idaho Code, whether on behalf of himself or any other person." Idaho Code § 20-412. Defendants cite to *Crawford v. Department of Correction*, 133 Idaho 633, 991 P.2d 358 (1999) and the Commission's Declaratory Ruling *In: re Idaho Correctional Industries and Idaho Code § 20-413A*, 2015-DR0001 (January 9, 2015) in support of their contention that Claimant was not an employee at the time of his injury for purposes of Idaho Workers' Compensation law.

The Commission finds that the issues posed by Defendants in their Petition are not appropriate for a declaratory ruling, as there is no "actual controversy" as contemplated by JRP 15. The applicability of Idaho Code §20-412 to the facts of the instant case is a question of factual determination and not of statutory construction. The issue of inmate laborers in relation to workers' compensation has been sufficiently considered by the Commission, the Office of the Attorney General for the State of Idaho, and the Idaho Supreme Court to provide the parties adequate direction. The factual question presented by Defendants of whether or not Claimant was an employee of Defendant Department of Health and Welfare at the time of his injury and if he qualifies as a prisoner under Idaho Code §20-412 is more properly handled by the Referee assigned to this case. For the foregoing reasons we decline to entertain Defendant's petition for declaratory ruling. IT IS SO ORDERED.

DATED this 4th day of September, 2015.

INDUSTRIAL COMMISSION

____Unavailable for signature_____
R.D. Maynard, Chairman

_____/s/_____
Thomas E. Limbaugh, Commissioner

_____/s/_____
Thomas P. Baskin, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of September, 2015 a true and correct copy of the foregoing **ORDER ON PETITION FOR DECLARATORY RULING** was served by regular United States Mail upon the following:

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S.I.C.I. N.D. – A-30
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NEIL D MCFEELY
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ka

_____/s/_____