

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

AMBER M. LAWSON,

Claimant,

v.

ADDUS HEALTHCARE, INC.,

Employer,

and

LIBERTY INSURANCE CORPORATION,

Surety,

Defendants.

**IC 2012-024774  
2013-031337**

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

Filed June 4, 2015

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On April 16, 2015, Claimant filed a Motion for Reconsideration with supporting memorandum regarding the Industrial Commission's decision filed March 24, 2015, in the above referenced case. On April 27, 2015, Addus Healthcare, Inc. and Liberty Insurance Corporation (Defendants) filed Defendants' Objection and Brief in Support of Objection to Claimant's Motion for Reconsideration. Claimant filed a reply on May 4, 2015.

**BACKGROUND**

It is undisputed that Claimant injured her back in August 2012 while in the course and scope of her employment with Employer. On January 2, 2013, Claimant fell again while working for Employer, exacerbating her symptoms from the August incident. Soon after the January fall, Claimant's treating physician determined she was at maximum medical improvement (MMI).

At hearing, Claimant contended that she is not at MMI and is entitled to additional benefits and reasonable medical care, including a repeat MRI. Defendants argued Claimant failed to establish entitlement to additional medical or time loss benefits, as she was declared medically stable by Dr. Ludwig on January 9, 2013.

The Commission found that although Dr. Ludwig felt a repeat MRI would be reasonable and helpful, he did not opine it would be necessary as the result of either of Claimant's industrial accidents. Additionally, Dr. McNulty testified that while an MRI is indicated, he cannot, without viewing and comparing the MRI films, attribute the need for the repeat MRI to a particular accident or event.

The Commission concluded that Claimant had not established a right to further medical care or additional temporary disability benefits beyond January 9, 2013.

In her motion for reconsideration, Claimant argues that the decision fails to analyze each incident as a separate case, and such comingled facts resulted in a misapplication of the law to both claims. Claimant contends, pursuant to the holding in *Davis*, that Claimant was entitled to receive the MRI in order to determine whether she had suffered a new permanent injury in her fall and/or a permanent aggravation of her back injury caused by her August 19, 2012 accident. *Davis v. U.S. Silver, Inc.*, 2013 IIC 0048 (July 3, 2013, Order Granting Reconsideration).

Defendants contend Claimant's motion is based upon her disagreement with the Commission's determination of the weight given to the facts presented and conclusions drawn from those facts, rather than upon legal error. Defendants aver the motion requests the Commission reweigh the evidence and presents no new legal or factual information.

#### **AUTHORITY**

Under Idaho Code § 72-718, a decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated; provided, within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision. . . and in any such events the decision shall be final upon denial of a motion for rehearing or reconsideration of the filing of the decision on rehearing or reconsideration. J.R.P. 3(f) states that a motion to reconsider “shall be supported by a brief filed with the motion.”

On reconsideration, the Commission will examine the evidence in the case, and determine whether the evidence presented supports the legal conclusions. The Commission is not compelled to make findings on the facts of the case during a reconsideration. *Davison v. H.H. Keim Co., Ltd.*, 110 Idaho 758, 718 P.2d 1196. The Commission may reverse its decision upon a motion for reconsideration or rehearing of the decision in question, based on the arguments presented, or upon its own motion, provided that it acts within the time frame established in Idaho Code § 72-718. *See, Dennis v. School District No. 91*, 135 Idaho 94, 15 P.3d 329 (2000) (*citing Kindred v. Amalgamated Sugar Co.*, 114 Idaho 284, 756 P.2d 410 (1988)).

A motion for reconsideration must be properly supported by a recitation of the factual findings and/or legal conclusions with which the moving party takes issue. However, the Commission is not inclined to re-weigh evidence and arguments during reconsideration simply because the case was not resolved in a party's favor.

### **DISCUSSION**

Claimant contends the Commission’s decision commingled the facts when it should have undertaken a separate analysis for each claim. Claimant goes on to assert that the commingling

of facts resulted in a misapplication of the law to both claims. The two claims in this matter related to the same body part and resulted in the similarly located symptoms, requiring medical attention from the same doctor at the same appointments. The cases were consolidated and the relevant facts are, in large part, overlapping. Claimant may not agree with the organization of the decision and clearly does not agree with the conclusion, but the Commission considered all the pertinent facts in its analysis.

Claimant argues, pursuant to the holding in *Davis*, that she was entitled to receive the MRI in order to determine whether she had suffered a new permanent injury in her fall and/or a permanent aggravation of her back injury caused by her August 19, 2012 accident. *Davis v. U.S. Silver, Inc.*, 2013 IIC 0048 (July 3, 2013, Order Granting Reconsideration). While, Claimant avers the Commission misapplied the holding in *Davis*, the case and its application to these facts were discussed in the decision and the Commission finds the decision's analysis to be correct. A claimant who has suffered an accident is not automatically entitled to any treatment that may be called diagnostic. *Davis* did not create an additional entitlement to benefits beyond Idaho Code §72-432. Idaho Code § 72-432(1) mandates that an employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, ... as may be reasonably required by the employee's physician or needed immediately after an injury and for a reasonable time thereafter. The fact that Claimant suffered a covered injury to a particular part of her body does not make the employer liable for all future medical care to that part of the employee's body, even if the medical care is reasonable. *Henderson v. McCain Foods, Inc.*, 142 Idaho 559, 130 P.3d 1097, (2006). The Commission's decision addressed this exact issue and we find no reason to review the analysis again.

**CONCLUSION**

The Commission has reviewed the record with a focus on the concerns presented by Claimant in the motion for reconsideration and we still find the facts support the decision issued on March 24, 2015. The Commission’s analysis took into account all the documentary evidence and testimony. Although Claimant disagrees with the Commission’s findings and conclusions, the Commission finds the decision is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Claimant’s Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this \_\_4th\_\_ day of \_\_June\_\_\_\_\_, 2015.

INDUSTRIAL COMMISSION

\_\_\_\_\_  
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 4th day of June, 2015, a true and correct copy of the foregoing **ORDER DENYING MOTION FOR RECONSIDERATION** was served by regular United States Mail upon each of the following:

STARR KELSO  
PO BOX 1312  
COEUR D ALENE ID 83816

JOSEPH WAGER  
PO BOX 6358  
BOISE ID 83707

/s/ \_\_\_\_\_