BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SANDRA HARE, Claimant, v. SOUTH CENTRAL COMMUNITY ACTION PARTNERSHIP, INC., Employer, and IDAHO STATE INSURANCE FUND, Surety, Defendants.	**IC 2009-014187** **IC 2011-027764** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** **FILED AUG 25 2014**

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Industrial Commission assigned the above-entitled matter to Referee Douglas A. Donohue, who conducted a hearing in Twin Falls on July 29, 2013. Dennis Petersen represented Claimant. Paul Augustine represented Defendants. The parties presented oral and documentary evidence. Claimant and Defendants took post-hearing depositions and each submitted a brief. The matter came under advisement on May 5, 2014 and is now ready for decision.

ISSUES

The issues to be decided by the Commission as the result of the hearing are:

1. Whether Claimant gave notice within 60 days as required by Idaho Code § 72-701;
2. Whether Claimant suffered an injury caused by an accident arising out of and in the course of employment;
3. Whether the condition for which Claimant seeks benefits was caused by the alleged industrial accident;
4. Whether and to what extent Claimant is entitled to benefits for:

   a) Medical care; and
   b) Temporary disability.

All other issues are reserved.

CONTENTIONS OF THE PARTIES

Claimant contends that she suffered a low back injury on November 19, 2010 when she was lifting frozen turkeys for Employer. She promptly reported the accident and injury to a supervisor.

Defendants deny that Claimant suffered an accident around that time or gave timely notice of such.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. Testimony at hearing of Claimant, her supervisor Leanne Trappen, and Employer's HR representative Jenny Randolf;
2. Claimant's exhibits 1 through 19;
3. Defendants' Exhibits 1 through 5; and
4. Post-hearing depositions of Employer's intern Jesse Coburn, Employer's CEO Kenneth Robinette, and physiatrist James H. Bates, M.D.

All objections in depositions are overruled. The record was held open to allow for admission of additional time cards to complete Claimant's exhibit 19. No additional time cards were provided.

After having considered the above evidence and the arguments of the parties, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

FINDINGS OF FACT

1. Employer is a non-profit entity which provides services to low-income families and individuals in and around the Twin Falls area. In addition to providing food directly to individuals and families, Employer provides some food to soup kitchens and food banks in the area. Claimant worked for Employer beginning 2002. At various times during her employment, Employer operated one or more food distribution hubs in Burley, Jerome,

or Gooding. Leanne Trappen was Claimant's supervisor throughout Claimant's employment there.

2. About 2005 Claimant reported a compensable accident in which she fell off a paint bucket. Claimant recalled that she hurt her leg. The workers' compensation documents state she suffered a low back injury. Claimant reported the accident promptly to Ms. Trappen. When pain persisted for a week, Ms. Trappen sent her to Occupational Health for treatment. Employer has designated Occupational Health as its first provider for medical treatment involving workers' compensation claims. The injury healed without sequela.

3. Funding cuts created difficulties beginning in 2009. In March 2010 about 13 employees were laid off. Financial tension continued through 2011.

4. Claimant reported a compensable accident in May 2009. That accident involved lifting boxes of frozen chicken. Ms. Trappen completed an accident report. She referred Claimant to Occupational Health for treatment. Symptoms resolved without sequela by June 10, 2009; Claimant returned to full duty without restrictions. A Complaint was filed in November 2011, on the same date as the Complaint for the claim about the November 19, 2010 incident. Although the 2009 accident involves an open claim and was consolidated with the pertinent matter, no disputes regarding it are currently extant. During the course of that claim Claimant was instructed by Employer to lift less and coordinate more with volunteers who could do the lifting.

5. Claimant reported a compensable accident in July 2009, an ankle injury. She reported the accident. Employer provided medical care under its workers' compensation policy.

6. Just before Thanksgiving 2010—as Employer annually did—Employer held

a turkey drive. It was conducted on November 18, 19, and 20, the Thursday, Friday, and Saturday preceding Thanksgiving. Employer collected cash donations, frozen turkeys, and other foodstuffs from individual donors to make Thanksgiving dinner baskets for the poor. Ms. Trappen supervised and Claimant assisted. Donations were received at a local car lot. They were the only employees of Employer at the lot for the turkey drive. Additionally, Jesse Coburn, other individuals, students from local high schools, and the C of I rodeo club volunteered to help with the physical work involved in receiving donations, boxing them for distribution to off-lot hubs and to individual recipients, and performing other miscellaneous chores.

7. Claimant typed a time card which showed 9 hours of work on November 18, 10 hours of work on November 19, and 10 hours of work on November 20. Ms. Trappen initialed the card and approved the overtime.

8. Claimant typed another time card which showed 8 hours of work each day November 22, 23, and 24, the Monday, Tuesday, and Wednesday before Thanksgiving 2010, and 8 hours of work each day for the Monday and Tuesday after Thanksgiving. Although this second time card purports to include the opportunity for time worked through the third week of December, Claimant entered no time for December. Testimony of both Claimant and Ms. Trappen implies that Claimant actually worked in December. This discrepancy between testimony and the time card remains unresolved. The record shows Claimant was continuing to work before July 2011 and to the date of her termination.

9. Claimant first sought medical treatment from chiropractor Paul Egbert, D.C., on December 28, 2010. The top of his patient information sheet notes, “Not insured.” By history, Dr. Egbert recorded, “Developed during the turkey drive [with] repetive [sic] lifting.” Dr. Egbert’s note of that visit also states, “<u>not</u> making an insur/comp claim. I suggest that if

it does not clear in a week." (emphasis his). He recommended light duty. Claimant reported improvement when she visited the next day, December 29, and again on December 30. Claimant's final visit occurred on January 3, 2011. Claimant again reported improvement. Dr. Egbert again recommended light duty. Claimant did not appear for the next scheduled visit. Claimant did not reveal Dr. Egbert's recommendation of light duty to Employer.

10. In June 2011 because of funding issues, Claimant's job description was revised from "program assistant" to "program clerk" and resulted in a wage reduction. Employer claimed that the revision more accurately described Claimant's actual job duties. Claimant's actual job duties did not change. This action was unrelated to discipline, injury, or any workers' compensation issue.

11. On July 27, 2011 Claimant visited her general physician, David Spritzer, M.D. She described a "one to two year history of intermittent right sacroiliac pain. There is no clear-cut history of injury. Her job does involve a lot of positioning and lifting." He further noted, "Unfortunately she does not have insurance." Claimant received work restrictions—no lifting over 25 pounds—on July 27, 2011 and promptly reported these to Employer.

12. On August 9, 2011 Claimant visited Dr. Schenkar at Mustard Tree Clinic. He noted "? Due to job & USDA food boxing beginning 2003 [illegible] pain just this. Thinks that 2010 annual turkey drive. Told boss 11/2010 that she hurt back. She reports boss told her to rest, sent home early / activity restricted 2 day then [illegible] regular lifting etc. . . . Told to file labor claim for back as she did not know to do so." Under "Plan:" it states, "Will file labor claim."

13. Employer terminated Claimant about October 25, 2011 because she could not perform 50% of her job duties.

14. Having filed her claim by this point, Claimant gave a detailed history when she visited Brian Johns, M.D., on January 2, 2012.

15. Claimant first visited James Bates, M.D., on January 16, 2013. His deposition testimony did not offer any first-hand information relevant to the issue of notice.

Testimony Provided

16. **NOTE:** Credibility of conflicting testimony is a significant component impacting this decision. Recitation of a witness's testimony does not imply acceptance as fact of the substantive allegation.

17. Claimant, in deposition, testified as follows: During the day on November 19, 2010 Claimant was alone with Jesse Coburn in a refrigerated trailer, making boxes and boxing turkeys. Mr. Coburn was the only volunteer available at the time to help her. She lifted two frozen turkeys, one in each hand, and felt immediate low back pain. She exclaimed about the pain; Mr. Coburn told her to be careful. She immediately left the trailer, went to the nearby tent in which Ms. Trappen was working, and reported the incident to Ms. Trappen. Ms. Trappen told her to sit and rest. Claimant sat in the tent and rested for about two hours; then Ms. Trappen sent her home early. Claimant returned to work the next morning; Ms. Trappen instructed Claimant to sit in the tent and greet people and to avoid lifting. That Saturday, Claimant manned the tent and Ms. Trappen drove off-lot to make deliveries. That Saturday Claimant found herself unable to sit for long or to stand for long. She remained at the lot and performed only light work all day. Although hurting more than on Friday, Claimant did not yet believe she needed medical attention.

18. Claimant further testified in deposition: At some point during the Monday, Tuesday, or Wednesday following the turkey drive, Claimant again told Ms. Trappen that

she “was hurting really bad.”

19. Claimant further testified in deposition: Claimant did not discuss her accident or back pain with Ms. Trappen during the week immediately following Thanksgiving; her back felt “okay.” At work after Thanksgiving, Claimant “kept saying” that her back hurt; Ms. Trappen told Claimant to go to a chiropractor. Claimant argued with her about whether she needed a chiropractor. At her first visit, Claimant told the chiropractor that she had hurt her back during the turkey drive. The chiropractor did not ask whether or suggest that Claimant would or should make a workers’ compensation claim. She attempted to discuss her injury and treatment with Ms. Trappen on several occasions in or about January 2011, but felt Ms. Trappen pushed the subject away. Claimant admitted that from November 2010 through July 2011 she did not tell any employee or supervisor other than Ms. Trappen that she had hurt herself during the turkey drive.

20. Claimant further testified in deposition: Claimant told Dr. Spritzer in July 2011 that she hurt herself during the turkey drive. Dr. Spritzer recommended an MRI but Claimant told him she could not afford it. They did not discuss workers’ compensation insurance or the possibility of making a claim. Dr. Spritzer suggested Mustard Tree Clinic might be able to help. Mustard Tree informed Claimant they could not help with that cost and suggested Claimant file a workers’ compensation claim. During this time period Claimant discussed her continuing pain and the possibilities of an MRI and Mustard Tree assistance with Ms. Trappen, but did not discuss having had an accident at work or a possible workers’ compensation claim. Claimant testified that having mentioned it before and feeling ignored, she declined to raise the subject again.

21. At hearing Claimant added detail in her testimony; she testified to facts which

were materially inconsistent with her deposition testimony as follows: The turkey drive was "a little short on volunteers" that year; in addition to Jesse Coburn's volunteer help, volunteers from the Community Work Center assisted with moving and loading boxes of turkeys for delivery to Burley and Jerome. Claimant and Jesse were alone in the trailer when Claimant lifted two turkeys and felt back pain; she and Jesse discussed the incident and agreed to complete the work. Upon doing so, Jesse, then Claimant, exited the trailer; Ms. Trappen was standing at the stairs to the open end of the trailer. First Jesse, then Claimant, described the accident to Ms. Trappen. Ms. Trappen instructed Claimant to sit and would not let her perform any work beyond writing receipts for donations for the rest of the day. Ken Robinette arrived about 5:00 p.m. In Ms. Trappen's presence Claimant told Mr. Robinette about the accident and her back pain.

22. Claimant testified at hearing that on Saturday morning she arrived at the lot before Ms. Trappen. When Ms. Trappen arrived, she asked Claimant how she was feeling and Claimant said she was "a little sore." Ms. Trappen ordered Claimant to avoid lifting that day. A high school sports team associated with Ms. Trappen's son arrived to volunteer on Saturday. Claimant and the volunteers delivered turkeys to Burley on Saturday.

23. She further testified at hearing that volunteers were available to distribute turkeys and other food on the Monday, Tuesday, and Wednesday after the turkey drive in preparation for Thanksgiving. Ms. Trappen again asked Claimant about her back on Monday. On Tuesday after a similar discussion, Ms. Trappen told Claimant to visit a chiropractor. Claimant argued because she thought her injury was more serious than "just soreness." Claimant was vague when asked if she had asked Ms. Trappen to make a report of injury, but stated she was worried about her job and felt as if she were being "pushed to quit." On cross-examination Claimant testified she was unsure whether she talked about her back to

Ms. Trappen on Monday or Tuesday, but had done so on at least one of those days.

24. Claimant testified at hearing that after Thanksgiving she again talked to Ms. Trappen about her back. Ms. Trappen again recommended she visit a chiropractor. Claimant stopped treating with Dr. Egbert because she could not afford it. She told Ms. Trappen she could not afford additional chiropractic treatment.

25. Claimant testified at hearing that Ms. Trappen was "really upset" when Claimant presented Dr. Spritzer's restrictions in July 2011. Claimant did not tell Ms. Trappen that she ascribed the restrictions to the November 2010 incident because she was worried about her job.

26. Claimant testified at hearing that she did not discuss the issue of a potential workers' compensation claim when she was terminated because she was worried it would affect Employer's assistance in obtaining unemployment insurance benefits. Claimant testified that in October 2011 Ms. Trappen knew Claimant wanted to make a workers' compensation claim; Ms. Trappen required Claimant's signature on a form to release medical records.

27. Also at hearing Claimant testified she had no significant back pain—only occasional soreness—after June 2009 when she recovered from the 2009 accident; she neither needed nor sought any medical treatment between June 2009 and December 2010.

28. When questioned about her time card for the days of the turkey drive, at hearing Claimant testified she left early Thursday to go to the movies with her daughter, that she left early Friday because of her back pain from the accident, and that she left early both Friday and Saturday because Ms. Trappen sent her home early.

29. Jesse Coburn performed volunteer work for Employer as part of his schooling for one semester from about September through December 2010. He testified as follows: He worked beside Claimant during the turkey drive. He recalled that she complained of

back pain during the turkey drive. He recalled that she complained of back pain generally and frequently throughout the four months he worked beside her. He did not recall a specific event or triggering instance. He did not recall Claimant telling Ms. Trappen about back pain during the turkey drive.

30. Ms. Trappen testified in deposition as follows: On Friday, November 19, Claimant drove about the region delivering foodstuffs. Claimant also worked the lot for the turkey drive. Jesse Coburn and other volunteers helped work the lot for the turkey drive. Volunteers were available to lift, box, and move frozen turkeys in the refrigerated trailer on the lot. There were more volunteers available in 2010 than had been available in years past. Turkeys were put in boxes, two to four turkeys per box depending upon their size. Ms. Trappen did not observe Claimant's activity inside the trailer. She did see Claimant carry an occasional turkey from a donor's car into the trailer. That day Claimant never reported an accident. Claimant never reported her back was hurting. Ms. Trappen never told Claimant to sit and rest that day. She never told Claimant to go home early. Working throughout the day on Saturday, November 20, Claimant never mentioned to Ms. Trappen that she had hurt her back the previous day. The next week, Claimant never mentioned to Ms. Trappen that she had hurt her back. In early-to-mid December Ms. Trappen noticed Claimant occasionally walking with an uneven gait and exhibiting indications of pain; Claimant did not talk about it to Ms. Trappen. Sometime before Christmas Claimant told Ms. Trappen that her back was hurting and that she thought she had a pinched nerve. Ms. Trappen recommended Claimant visit a chiropractor, Paul Egbert, D.C. Ms. Trappen had previously treated with him. At no time between Thanksgiving and December 28, 2010 did Claimant tell Ms. Trappen that she had hurt her back during the turkey drive. Had Claimant reported a work-related accident or

injury to Ms. Trappen, Ms. Trappen would have completed a report and directed Claimant to Occupational Health. At some point while Claimant was receiving treatment from Dr. Egbert, she discussed her progress with Ms. Trappen; Claimant gave no indication she related her back pain or need for treatment to work or to a work event. Claimant never mentioned to Ms. Trappen that she had hurt her back during the turkey drive. Claimant never complained to Ms. Trappen of difficulty or inability to work before July 27, 2011; she did occasionally complain of back pain. Claimant presented Ms. Trappen with the doctor's restrictions shortly after July 27, 2011; she did not say these were due to a work accident or injury. Ms. Trappen first learned Claimant was alleging a workers' compensation claim "long after" she had been terminated; Mr. Robinette told Ms. Trappen that a claim had been filed.

31. Ms. Trappen testified at hearing that there were four turkeys in each box. Otherwise, Ms. Trappen's testimony at hearing was consistent in all material respects with the deposition testimony recited above.

32. Employer's HR representative was Jenny Randolf. In deposition, she testified as follows: She completed the paperwork for Claimant's 2009 workers' compensation claim; Ms. Trappen prepared a supervisor's accident report which provided the information upon which Ms. Randolf prepared the Form 1; Ms. Randolf did not have contact with Claimant about that claim. Ms. Randolf first became aware that Claimant was alleging a November 19, 2010 accident probably when she opened the mail which included a notification from Claimant's attorney. She, in turn, notified Employer's CEO Ken Robinette. Ms. Randolf was unaware of a potential claim alleging a November 19, 2010 accident when Claimant was terminated in October 2011. Without specifying any date, Ms. Randolf recalled having observed Claimant apparently walking with pain both before and after November 2010; Ms. Randolf does not

recall that she ever discussed it with Claimant. Although Ms. Randolf believes she discussed the July 2011 restrictions with Claimant and Ms. Trappen, she does not actually recall the meeting. Ms. Randolf was present for discussions about terminating Claimant in October 2011, but was not a decision maker. Claimant was to be terminated because her limitations prevented her from being able to perform her job duties. Ms. Randolf's testimony is unclear about whether she attended the termination meeting with Claimant.

33. At hearing, Ms. Randolf recalled that Claimant was informed that Employer would "lay her off" at the termination meeting. Claimant did not mention a potential claim arising from any 2010 event. Otherwise, Ms. Randolf's testimony at hearing was consistent in all material respects with the deposition testimony recited above.

34. Additionally, Ms. Randolf testified about the decision to accommodate Claimant's restrictions in July 2011. Before the restrictions were known a volunteer would be asked to help Claimant work the pantry as needed. After the July 2011 restrictions were imposed, another employee was required to assist Claimant in working the pantry. Ms. Randolf had no knowledge of Claimant's potential 2010 workers' compensation claim in July 2011 and is unaware whether anyone else did. Upon termination, the person who had been assisting in the pantry took over Claimant's job duties. No new person was hired immediately.

35. Ken Robinette, CEO of Employer testified by way of post-hearing deposition. He specifically remembers meeting with Claimant on Friday of the turkey drive; he does not recall any conversation specifically; he does not recall discussion about an accident, a back injury, or directing Claimant to rest or limit her lifting. During the 2010 turkey drive neither Claimant nor Ms. Trappen informed him of a work accident or back symptoms suffered by Claimant. Supervisors are required to complete a supervisor's report of any work accident.

The employee involved is also encouraged to write a report of it for HR. Mr. Robinette was unaware of a potential claim until well after Claimant was terminated when the Complaint was filed nearly one year later.

DISCUSSION AND FURTHER FINDINGS

The provisions of the Idaho Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. *Aldrich v. Lamb-Weston, Inc.*, 122 Idaho 361, 363, 834 P.2d 878, 880 (1992).

Credibility of Claimant and Other Witnesses

36. The demeanor of Claimant gave no indication of conscious untruthfulness. Substantively, Claimant's testimony was internally inconsistent about certain crucial points.

37. The demeanor of Ms. Trappen gave no indication of conscious untruthfulness. Substantively, Ms. Trappen's testimony was internally consistent about all material points.

38. The demeanor of Ms. Randolf gave no indication of conscious untruthfulness. Substantively, Ms. Randolf's testimony was internally consistent about all material points.

39. Claimant quibbled with notations in her medical records about workers' compensation, onset and duration of back pain, and payment of medical bills where the notations would tend to undercut her testimony about the accident and when and whether she notified Employer; she denied making such statements attributed to her in these medical records.

40. Comparing the testimony of Claimant with that of each of the other witnesses, certain material allegations are irreconcilable. Misunderstanding, miscommunication, lack

of memory, or mere difference of perspective are improbable explanations for these conflicting allegations.

Notice: Idaho Code § 72-701

41. Idaho Code § 72-701 provides, in pertinent part:

> No proceedings under this law shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable but not later than sixty (60) days after the happening thereof, and unless a claim for compensation with respect thereto shall have been made within one (1) year after the date of the accident…

42. Idaho Code § 72-702 requires that the notice must be in writing. However, notice required under Idaho Code § 72-701 is sufficient, even if the formal requirements are not met, so long as "…the employer, his agent or representative had knowledge of the injury or occupational disease or…the employer has not been prejudiced by such delay or want of notice." Idaho Code § 72-704. Notice is sufficient if it apprises the employer of the accident arising out of and in the course of employment causing the personal injury. *Murray-Donahue v. National Car Rental Licensee Association,* 127 Idaho 337, 339, 900 P.2d 1348, 1350 (1995). Where notice requirements are not met, it is a claimant's burden to show an employer has not been prejudiced by the want of notice. *Jackson v. JST Manufacturing*, 142 Idaho 836, 136 P.3d 307 (2006).

43. Claimant testified to the occurrence of a specific lifting incident; Dr. Egbert's history attributes Claimant's symptoms to repetitive lifting. While it would be easy to distinguish these differences we decline to do so. The Commission is well familiar with instances in which a patient's reported history is recorded by a caregiver with a certain amount of inaccuracy or ambiguity. Moreover, the difference between lifting two turkeys and repetitive lifting during an afternoon would not matter for our purposes in this case. Claimant had reported

her 2009 accident based upon repetitive lifting; Employer had filed a claim on her behalf and Surety paid medical benefits.

44. However, Dr. Egbert's emphatic note that Claimant was refusing to make a workers' compensation claim is a strong, independent indicator that Claimant did not give notice of accident or claim to Employer before December 28, 2010, and, as of that date, did not intend to do so. This note supports the consistent testimonies of all lay witnesses other than Claimant, and undercuts the credibility of Claimant's testimony of notifying her supervisor of a work-related event.

45. Medical records show Claimant was encouraged to file a workers' compensation claim by both Drs. Egbert and Schenkar. Dr. Spritzer discussed her lack of insurance with her. These records indicate that Claimant had not provided a notice to Employer on or before each of these dates. They show Claimant's continuing determination, through the end of her employment, not to make Employer aware of a potential claim.

46. Claimant's newly-remembered or newly-invented hearing testimony of having given notice to Mr. Robinette is unpersuasive. Taken by itself, Mr. Robinette's testimony might have been considered merely a failure of memory—this despite his persuasive testimony about Employer's policies and history regarding safety of employees and reporting of accidents. Taken in conjunction with consistent testimony by others and supporting medical notes, Mr. Robinette's testimony is more persuasive that Claimant did not report anything relating to a potential claim to him during the turkey drive.

47. Claimant's deposition description of finding Ms. Trappen in the tent and first giving notice is materially inconsistent with her hearing testimony of finding Ms. Trappen at the stairs to the trailer, of hearing Mr. Coburn describe the accident to Ms. Trappen, and

of then telling Ms. Trappen herself about it. This change of testimony has the effect of impeaching Claimant. Moreover, the change increases the inconsistency between Claimant's and Mr. Coburn's testimony; Mr. Coburn did not recall an event, much less that he reported it; rather, he recalled that Claimant frequently complained of back pain in the months preceding the turkey drive as well as afterward.

48. Claimant testified at hearing that she acted because she feared for her continued employment. This new explanation at hearing is possibly supported by prior disciplinary write-ups and the financial tension Employer felt after Spring 2009. However, it is undercut by the fact that Claimant made three prior workers compensation claims—two in 2009—for which Employer completed paperwork according to its policy and procedure and for which Claimant received appropriate workers' compensation benefits.

49. The consistent testimony of Ms. Trappen is more persuasive than Claimant's allegations to the contrary. Claimant did not give timely notice; indeed, she affirmatively withheld notice of a potential claim from Employer until she was terminated nearly one year later.

50. Claimant has not met her burden of showing that Employer had actual knowledge of the alleged accident. Nor has Claimant met her burden of demonstrating that Employer was not prejudiced by lack of notice. Indeed, the prejudice to Defendants is manifest; Claimant was encouraged to see a chiropractor rather than Employer's designated medical care provider; witnesses had difficulty recalling potentially important conversations and events by the lack of timely notice; Surety was unable to assess promptly what action to take.

51. The issue of notice is dispositive; other questions, including causation and whether Claimant suffered a compensable accident, are moot.

CONCLUSIONS OF LAW

1. Claimant's claim should be dismissed for failure to provide timely notice as required by Idaho Workers' Compensation Law.

2. All other issues are moot.

RECOMMENDATION

Based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 20TH day of AUGUST, 2014.

INDUSTRIAL COMMISSION

/S/________________________________
Douglas A. Donohue, Referee

ATTEST:

/S/______________________________
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 25TH day of AUGUST, 2014, a true and correct copy of **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** were served by regular United States Mail upon each of the following:

DENNIS R. PETERSEN
P.O. BOX 1645
IDAHO FALLS, ID 83403-1645

PAUL J. AUGUSTINE
P.O. BOX 1521
BOISE, ID 83701

dkb /S/________________________________

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SANDRA HARE, Claimant, v. SOUTH CENTRAL COMMUNITY ACTION PARTNERSHIP, INC., Employer, and IDAHO STATE INSURANCE FUND, Surety, Defendants.	**IC 2009-014187** **IC 2011-027764** **ORDER** **FILED AUG 25 2014**

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant's claim is dismissed for failure to provide timely notice as required by Idaho Workers' Compensation Law.

2. All other issues are moot.

3. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 25TH day of AUGUST, 2014.

INDUSTRIAL COMMISSION

/S/____________________________
Thomas P. Baskin, Chairman

/S/________________________________
R. D. Maynard, Commissioner

/S/________________________________
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/_____________________________
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 25TH day of AUGUST, 2014, a true and correct copy of **ORDER** were served by regular United States Mail upon each of the following:

DENNIS R. PETERSEN
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