

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

KRISTINE CAMPAGNI,

Claimant,

v.

THE WALT DISNEY COMPANY, dba, THE  
DISNEY STORE, Employer, and LIBERTY  
MUTUAL FIRE INSURANCE COMPANY,  
Surety,

and

HOOP RETAIL STORES, LLC, dba, THE  
DISNEY STORE, Employer, and ZURICH  
NORTH AMERICAN INSURANCE  
COMPANY, Surety,

Defendants.

**IC 2004-506690**

**IC 2006-003561**

**ORDER ON RECONSIDERATION**

**Filed April 12, 2013**

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On February 22, 2013, the Commission entered its Findings of Fact, Conclusions of Law and Order in this matter. On February 28, 2013, Claimant filed a motion for reconsideration along with a supporting brief. In her motion, Claimant urges the Commission to revisit Conclusion of Law No. 2, which reads as follows:

Claimant is not entitled to surgery. Zurich shall arrange for Claimant to undergo a diagnostic examination to determine the current status of her industrial injuries and her need for additional medical care. Zurich shall provide such additional care that Claimant may require for the effects of the subject accident.

Claimant argues that the Commission's conclusion that Claimant is not entitled to surgery is inconsistent with its more general holding that Claimant is entitled to such additional care that she may require as a consequence of her 2006 accident. Claimant requests that the Commission

revise the first sentence of Conclusion of Law No. 2 so that it is consistent with the remainder of the Conclusion.

A decision of the Commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated, provided that within twenty days from the date of filing the decision, any party may move for reconsideration. Idaho Code § 72-718. A motion for reconsideration must “present to the Commission new reasons factually and legally to support [reconsideration] rather than rehashing evidence previously presented.” *Curtis v. M.H. King Co.*, 142 Idaho 383, 128 P.3d 920 (2005). The Commission is not inclined to reweigh evidence and arguments simply because the case was not resolved in the party’s favor.

On reconsideration, the Commission will examine the evidence in the case and determine whether the evidence presented supports the legal conclusions in the decision. However, the Commission is not compelled to make findings of fact during reconsideration. *Davidson v. H.H. Keim*, 110 Idaho 758, 718 P.2d 1196 (1986).

Claimant intimates that her entitlement to a third surgery was not at issue before the Commission at hearing; however, the arguments and briefs of the parties indicate otherwise. Nevertheless, it was not the intent of the Commission to permanently foreclose the possibility of surgery as reasonable medical care; rather, the Commission concluded only that Claimant required further evaluation, both medical and psychological, before surgery could be entertained.

We therefore agree with Claimant that Conclusion of Law No. 2 requires clarification. As such, the Conclusion is amended to read as follows:

Claimant has not proven that she is entitled to surgery as of the date of hearing. Zurich shall arrange for Claimant to undergo such diagnostic evaluations as may be necessary to determine the current status of her industrial injuries and her need for further medical care. Consistent with this decision, Zurich shall provide

such additional care that Claimant may require for the effects of the 2006 accident as anticipated by I.C. § 72-432.

We note that in our review of the decision, we discovered several typographical and grammatical errors. We will therefore issue a revised decision that is consistent with this Order and that corrects the minor errors as well.

IT IS SO ORDERED.

DATED this   12th   day of April, 2013.

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 this 12th day of April, 2013, a true and correct copy of the foregoing **ORDER ON RECONSIDERATION** was served by regular United States Mail upon each of the following:

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