

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

STANLEY A. MORTON, JR.,

Claimant,

v.

STATE OF IDAHO, INDUSTRIAL  
SPECIAL INDEMNITY FUND,

Defendant.

**IC 2001-504012**

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

**Filed February 23, 2012**

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On January 10, 2012, Claimant filed a motion for reconsideration without a supporting brief. Claimant argues, without elaboration, that the Commission's Order disregards precedent, and bases its reasoning on hypothetical situations. Claimant contends that the Commission did not have authority to find that Claimant's claim against the ISIF could be time-barred pursuant to Idaho Code § 72-706, and the Commission's order should be reversed.

On January 20, 2012, Defendant filed a response with supporting brief to Claimant's motion for reconsideration. Defendant argues that Claimant's request for reconsideration should be denied because Claimant failed to file a brief in support of his motion or present new reasons to support reconsideration. Defendant argues that the Commission did not rely on hypothetical situations in reaching its conclusions. Further, appellate precedent and evidence supports the Commission's legal conclusions and analysis. Therefore, the Commission should uphold the underlying order.

Claimant did not file a reply brief.

**DISCUSSION**

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. J.R.P. 3(f) states that a motion to reconsider “shall be supported by a brief filed with the motion.” Generally, greater leniency is afforded to *pro se* claimants. However, “it is axiomatic that a claimant must present to the Commission new reasons factually and legally to support a hearing on her Motion for Rehearing/Reconsideration rather than rehashing evidence previously presented.” Curtis v. M.H. King Co., 142 Idaho 383, 388, 128 P.3d 920 (2005). 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.

Claimant takes issue with the Decision, but he presents no new arguments which cause the Commission to revise its conclusion. Although Claimant asserts that the Commission did not have authority to conclude that Claimant’s claim against the ISIF could be time-barred under Idaho Code § 72-706, Claimant failed to support this assertion or submit a brief as required by J.R.P. 3(f).

The Commission's analysis details the relevant facts of the case, Supreme Court precedent, and the application of Idaho Code § 72-706. Admittedly, Idaho Code § 72-706 does not expressly apply to claims against ISIF. However, the Commission's analysis addressed Idaho Code § 72-706 in its entirety, the policy considerations discussed by the Court in Waltman v. Associated Food Stores, 109 Idaho 273, 707 P.2d 384 (1985), and the arguments from the ISIF. Although Claimant disagrees with the Commission's findings, the Commission finds the Claimant has presented no persuasive argument to disturb the decision.

Based on the foregoing reasons, Claimant's Motion for Reconsideration is **DENIED**.

**IT IS SO ORDERED.**

DATED this 23rd day of February, 2012.

INDUSTRIAL COMMISSION

/s/ \_\_\_\_\_  
Thomas E. Limbaugh, Chairman

/s/ \_\_\_\_\_  
Thomas P. Baskin, Commissioner

/s/ \_\_\_\_\_  
R.D. Maynard, Commissioner

ATTEST:

/s/ \_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23rd day of February, 2012, a true and correct copy of the foregoing **ORDER DENYING REQUEST FOR RECONSIDERATION** was served by regular United States Mail upon each of the following:

JOSEPH JARZABEK  
PO BOX 1049  
SANDPOINT ID 83864

THOMAS W CALLERY  
PO BOX 854  
LEWISTON ID 83501

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