

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JESSICA RODRIGUEZ,

Claimant,

v.

WALMART ASSOCIATES, INC.,

Employer,

and

AIU INSURANCE COMPANY,

Surety,
Defendants.

IC 2023-014279

**ORDER DENYING CLAIMANT'S
MOTION TO RECONSIDER THE
ORDER OF THE INDUSTRIAL
COMMISSION ISSUED ON 8/30/24**

**FILED OCTOBER 4, 2024
IDAHO INDUSTRIAL COMMISSION**

Denial of Claimant's appeal/motion to reconsider the order of the Commission dismissing Claimant's motion to reconsider orders of the Referee.

Jessica Rodriguez, Boise, for Claimant. *Pro se.*

Mark Peterson & Sheldon Eilers, Hawley Troxell Ennis & Hawley, LLP, Boise, for Defendants.

INTRODUCTION

Claimant seeks to "appeal" the *Order Dismissing Claimant's Motion To Reconsider Interlocutory Suspension Of Benefits* issued by the Idaho Industrial Commission on August 30, 2024, which dismissed Claimant's motion to reconsider or appeal several interlocutory orders of the referee. Although Claimant's current motion is titled as an appeal to the Industrial Commission, it will be construed as a motion for reconsideration under Idaho Code § 72-718 because the Commission's rules of procedure offer no procedure for appeal to the Commission from an order of the Commission.

STANDARDS FOR MOTION TO RECONSIDER

Under Idaho Code § 72-718, "within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision."

On reconsideration, the Commission will examine the evidence in the case and

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determine whether the evidence presented supports the legal conclusions. The Commission is not compelled to make findings on the facts of the case during reconsideration. *Davidson v. H.H. Keim Co., Ltd.*, 110 Idaho 758, 718 P.2d 1196 (1986). The Commission may reverse its decision upon a motion for reconsideration, or rehear 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)), emphasis supplied. 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.

Corbell v. Micron Technology, 120919 IDWC, IC 2013-013574 (Idaho Industrial Commission Decisions, 2019)(emphasis removed). "It is axiomatic that a [party] must present to the Commission new reasons factually and legally to support a hearing on [a] 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).

MOTION TO STRIKE

Defendants have objected to Claimant's request, moved to strike Claimant's motion on the grounds there is no final order to consider, and filed a motion for sanctions or attorney fees. The Commission decided a narrow issue in its August 30, 2024, order, which is that the referee's orders were interlocutory. I.C. § 72-718 provides that "[a] decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission." The August 30, 2024, order of the Commission is a final order as to the matters adjudicated therein and is subject to reconsideration on those grounds. The Commission will not strike Claimant's motion. The Commission declines to sanction Claimant, who is self-represented, or to award attorney fees.

DISCUSSION

Claimant's motion to reconsider does not address the analysis laid out in the Commission's

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August 30, 2024, order and reargues the merits of the case. The Commission's August 30, 2024, order dismissed Claimant's motion because the referee's order was interlocutory. The Commission did not discuss the merits of the IME suspension of benefits because under ordinary circumstances a claimant must file a complaint and prosecute their worker's compensation case to its conclusion before the Commission can review a referee's decisions. Claimant's motion fails to give any reason to bypass this procedure. Therefore, the Commission adopts, incorporates, and affirms its prior findings of fact and discussion of law. Claimant's motion is denied.

Claimant's motion is also denied because it requests relief that is outside the authority of the Commission to grant. Claimant has argued that it is unfair to permit the Commission to evaluate its own prior orders and requests a jury trial or a hearing in district court. However, Claimant's relief must be found as it is provided in Idaho Code.

A decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision, or the commission may rehear or reconsider its decision on its own initiative, and in any such events the decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on rehearing or reconsideration. Final decisions may be appealed to the Supreme Court as provided by section 72-724, Idaho Code.

I.C. § 72-718. As Idaho Code directs, Claimant may seek further relief by filing an appeal of any final order of the Commission with the Idaho Supreme Court under I.C. § 72-724 and the Idaho Appellate Rules (I.A.R.). However, the Commission cannot give Claimant a jury trial or a hearing in district court. Claimant's motion for reconsideration is denied.

DATED this ___ 4th ___ day of ___ October ____, 2024.



Attest:

Kamerron Slay
Commission Secretary

INDUSTRIAL COMMISSION

Thomas E. Limbaugh
Thomas E. Limbaugh, Chairman

Claire Sharp
Claire Sharp, Commissioner

Aaron White
Aaron White, Commissioner