

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

In the Matter of:
Barbara Alexander, Deceased, Bonnie Sauser,
Personal Representative of the Estate of
Barbara Alexander, Deceased;
Teresa Meath, Individually, Adult Child of
Barbara Alexander; and Jennifer Cummings,
Individually, Adult Child of Barbara
Alexander,

Claimants/Respondents,

v.

BOISE IDAHO HOMECARE, LLC, dba
VISITING ANGELS,

Deceased's Employer,

and

AMTRUST INSURANCE COMPANY,

Surety,
Defendants/Petitioners.

IC # 2021-019789

**ORDER GRANTING PETITION FOR
DECLARATORY RULING**

**FILED JANUARY 28, 2025
IDAHO INDUSTRIAL COMMISSION**

Introduction

Boise Idaho Homecare and Amtrust Insurance Co. (Petitioners) request a declaratory ruling on Idaho Code §§ 72-410(1)(a) and 72-412(2). Attorney Michael McPeck represents Petitioners. The request and supporting memorandum were filed on November 13, 2024, under Rule 15 of the Idaho Industrial Commission Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation Law, effective September 6, 2023. (JRP). Barbara Alexander, the deceased worker, her estate, and her three daughters are the Respondents (Respondents) in this case. No Response

to the Petition for Declaratory Ruling was filed, and it appears their interests are not represented in this matter. As explained below, the Commission grants the Petition.

Findings of Facts

1. In 2020, Barbara Alexander (Respondent Alexander/**Decedent**) was injured in a hit and run car accident on November 5, 2020. At that time, she was driving a car for business purposes for Employer. Her middle daughter, an adult with vision and mobility disabilities named Jennifer Cummings (Respondent Cummings), was a passenger in the car at that time of the accident, and she was a client of Employer's. Respondent Alexander later died as a result of the accident on November 15, 2020.

2. Bonnie Sauser (Respondent Sauser), was Respondent Alexander's oldest daughter and the personal representative of her mother's estate. Respondent Sauser filed the estate's 2020 tax return. Teresa Meath (Respondent Meath), was Alexander's youngest adult child, and she was listed as a dependent in both her mother's 2017 and 2020 tax filings.

3. Respondent Meath was born in 1976 with a seizure disorder. At the time of her mother's death, she had been living with her mother. Respondent Meath was married in 1995. She, herself, became a mother, bearing at least one child in 1996¹. In 2015, Respondent Meath and her husband separated, and she filed for divorce in 2017. During the divorce proceedings she stated her only income source was Social Security. She had been living with her mother for two years prior to her divorce. Respondent Meath split household expenses with her mother.

Arguments of the Parties

Petitioners allege an actual controversy exists over whether Idaho Code § 72-410(1)(a) and Idaho Code § 72-412(2) preclude an adult child of a deceased worker from qualifying for death

¹ The child's year of birth allegedly appears in juvenile proceedings filed April 17, 2014. Petition, p.2.

benefits. Petitioners present this as an issue of first impression for the Commission and the Idaho Supreme Court. Petitioners contend that the statutes allow a continuation of benefits for a child incapable of self-support are available *only if* the child was under 18 years old at the time of the parent's death.

Respondent did not file a response.

Issues

1. Whether the contents of the petition meet the requirements of JRP 15C.
2. Whether the Commission should grant Petitioner's request for declaratory ruling.

Discussion

I. The Standards for Declaratory Judgement Are Met

The issues Petitioners present do satisfy the filing requirements of JRP 15C. A party may request a declaratory judgment to resolve a dispute with a written petition when there is "an actual controversy over the construction, validity or applicability of a statute, rule, or order."

1. The petitioner must expressly seek a declaratory ruling and must identify the statute, rule, or order on which a ruling is requested and state the issue or issues to be decided;
2. The petitioner must allege that an actual controversy exists over the construction, validity or applicability of the statute, rule, or order and must state with specificity the nature of the controversy;
3. The petitioner must have an interest which is directly affected by the statute, rule, or order in which a ruling is requested and must plainly state that interest in the petition; and
4. The petition shall be accompanied by a memorandum setting forth all relevant facts and law in support thereof.

JRP 15C.

Petitioners' filings are complete and timely for purposes of JRP 15C. Their controversy regards the language and intent of Idaho Code Sections §§ 72-410(1)(a) and 72-412(2). The Commission is asked to decide whether the language of these two code sections create benefits eligibility for adult dependent children of deceased workers. This is an issue of first impression for the Commission.² The outcome of this controversy directly affects whether Respondents Meath and Sauser are entitled to income benefits stemming from the death of their mother.

For these reasons, the Commission finds an actual controversy over the construction of Idaho Code §§ 72-410(1)(a) and 72-412(2) exists. Petitioner has met the standards necessary for a declaratory ruling under JRP 15C.

II. The Commission Grants the Petition for Declaratory Ruling

The parties' dispute centers around the meaning of "dependent" and specifically whether the decedent has dependents who may be eligible for income benefits under Idaho Code §§ 72-410 and 72-412. As summarized in *Nelson v. City of Pocatello*, statutory interpretation should proceed as follows:

The object of statutory interpretation is to derive legislative intent. Interpretation of a statute begins with the statute's literal words. The statute should be considered as a whole, and words should be given their plain, usual, and ordinary meanings. The Court must give effect to all the words and provisions of the statute so that none will be void, superfluous, or redundant. When the statutory language is unambiguous, courts must give effect to the legislature's clearly expressed intent without engaging in statutory construction.

² Most of the cases on death benefits were issued prior to the 1972 recodification of Idaho Worker's Compensation Law. *In re Jones*, 84 Idaho 327, 372 P.2d 406 (1962)(holding that minor children remained eligible for death benefits from their father's death after the children were legally adopted); *Sanders v. Ray*, 67 Idaho 200, 174 P.2d 836 (1946) (holding that the decedent's stepchildren were dependent children); *Nicholas v. Idaho Power Co.*, 63 Idaho 675, 125 P.2d 321 (1942) (determining the legal widow and dependents of the decedent); *Larson v. Independent School Dist. No. 11J of King Hill*, 53 Idaho 49, 22 P.2d 299 (1933)(holding that minor children are dependents even if they are not actually financially dependent on the decedent); *Rodius v. Coeur d'Alene Mill Co.*, 46 Idaho 692, 271 P. 1 (1928) (illegitimacy does not affect dependency); *McRae v. School Dist. No. 23 of Payette County*, 56 Idaho 384, 55 P.2d 724 (1936)(dependency determined at the time of the accident). The Commission has not addressed the issue raised by Petitioners following recodification. In *Hirsbunner v. KDH Truck Leasing, Inc.*, IC 96-005233 (1997), the controversy was whether the decedent's sudden cardiac death arose out employment; the Commission awarded benefits to the surviving widow after reviewing the medical testimony.

However, if the statute is ambiguous, this Court must engage in statutory construction to ascertain legislative intent and give effect to that intent. To ascertain the legislature's intent, this Court examines the literal words of the statute, the context of those words, the public policy behind the statute, and the statute's legislative history. Courts must construe a statute under the assumption that the legislature knew of all legal precedent and other statutes in existence at the time the statute was passed.

Nelson v. City of Pocatello, IIC 2018-033423, 2021 WL 3743113 (Idaho Ind. Com. Aug. 12, 2021) (citing *Saint Alphonsus Reg'l Med. Ctr. v. Gooding Cty.*, 159 Idaho 84, 86-87, 356 P.3d 377, 379-80 (2015) (internal citations omitted)).

The starting point for our analysis is the plain, usual, and ordinary meaning of the statutory language.

A. Consideration of Idaho Code § 72-410 and 72-412

First, we look to Idaho Code § 72-410(1)(a), which defines the dependents who are potential recipients of income benefits when an employee has a work-related death. The statute states that dependents may include a child, widows or widowers, parents, grandparents, and grandchildren.

Idaho Code § 72-410 defines these terms as follows:

(1) A child:

(a) Under eighteen (18) years of age, or incapable of self-support and unmarried, whether or not actually dependent upon the deceased employee;

(b) Under twenty-three (23) years of age if a full-time student and as provided for in section 72-412(3), Idaho Code.

(2) The widow or widower only if living with the deceased or living apart from the deceased for justifiable cause, or actually dependent, wholly or partially, upon the deceased.

(3) A parent or grandparent only if actually dependent, wholly or partially, upon the deceased.

(4) A grandchild, brother or sister only if under eighteen (18) years of age,

or incapable of self-support, and actually dependent wholly upon the deceased.

Because the Decedent has two surviving adult children, subsection (1) is relevant to the current controversy. Subpart (1)(a) of Idaho Code § 72-410 includes the clause, “incapable of self-support and unmarried” in its description of child dependents entitled to income benefits regardless of their actual dependence upon the deceased employee. Subpart (a) of Idaho Code 72-410 does not elaborate on this description. Idaho Code § 72-412 does. Idaho Code § 72-412 provides the period of time in which income benefits are payable.

Death benefits are payable. . . :

(2) Unless as otherwise provided in subsection (3) of this section, to or for a child, *until eighteen* (18) years of age, and if incapable of self-support after age eighteen (18) years for an additional period not to exceed five hundred (500) weeks, deducting the period benefits which were paid prior to eighteen (18) years of age. Provided, income benefits payable to or for any child shall cease when such child marries.

(3) To or for a child *after age eighteen* (18) years who is enrolled as a full-time student in any accredited educational institution, or accredited vocational training program, until such child ceases to be so enrolled or reaches the age of twenty-three (23) years, whichever occurs first. Provided, in the event the child reaches the age of twenty-three (23) years during the quarter or semester in which the child is enrolled, benefits shall continue until the completion of the quarter or semester in which the child reached the age of twenty-three (23) years. This extension of benefits to the age of twenty-three (23) years shall not apply if the accident causing the injury or manifestation of the occupational disease occurred prior to December 31, 2006.

Idaho Code § 72-412 (emphasis added).

Idaho Code § 72-412 provides two paths to the time-frames of payable death benefits for a decedent’s surviving child. The first path is for a dependent child who receives benefits while under the age of 18 and then remains incapable of self-support after age eighteen. The second path is for a dependent child who is over 18 and enrolled as a full-time student in any accredited educational institution or accredited vocational training program. For the first path, a child’s

marriage or the completion of 500 weeks ends their eligibility for income benefits. For the second path, benefits end no later than the completion of the quarter or semester in which the child turns 23 years old.

Neither path to the time frames of payable death benefits applies to a non-student dependent child who is an adult at the time of their parent's death. Three portions of the language of Idaho Code § 72-412 support this conclusion. First "additional period" in subsection (2) makes clear that the benefits must first be paid before the dependent is 18. The word "additional" assumes something prior. In this case, the *something prior* is a period of benefits before the age of majority. Otherwise, "additional" would be rendered superfluous or unnecessary.

Second, Idaho Code § 72-412 uses the word "and" rather than "or" when describing the under-age-18 child. This phrasing ("and") narrows the application of "incapable of self-support" to minor children already receiving death benefits prior to the age of majority.

Notably, Idaho Code § 72-412(2) now combines the previously separated categories of "under eighteen" and "incapable of self-support." Rather than the disjunctive "or" used in Idaho Code § 72-410, it uses the conjunctive "and." Therefore, by its plain language, the schedule in Idaho Code § 72-412(2) only applies if the dependent child starts a minor, even if this child would eventually become an adult incapable of self-support. The full-time student schedule in subsection (3) does not apply to a child incapable of self-support, and there is no default schedule for "uncovered categories." Therefore, it would seem Idaho Code § 72-412 does not provide a term scheduling the benefits to a dependent child who is not a minor at the time of the worker's death. If this lack of a schedule requires denying benefits, it is a harsh outcome for the adult dependent child.

Consider the situation of an almost adult dependent child, versus one already an adult. The

parent of a seventeen-year-old minor with a disabling condition dies in a work accident the day before his eighteenth birthday. Idaho Code § 72-412 provides that the son will be covered for the full length of the schedule, until his eighteenth birthday plus five hundred weeks. However, should his parent die just one week later, after his birthday, no schedule is provided. The statute does nothing to inform the surety or child when or how long he should be paid benefits. If this lack of a schedule requires denying benefits, it results in a difference in benefits for a period of 500 weeks, solely because the death occurred just one week later. The Commission would be constrained to this outcome were it not for Idaho Code § 72-413 and the context of Idaho Code § 72-412.

B. Consideration of Idaho Code § 72-413

Although Idaho Code § 72-410 and 412 are the only statutes named by Defendants as an issue, Idaho Code § 72-413 was cited in the briefing, and is necessary context for the issue of benefits to adult dependents.

Idaho Code § 72-413 provides that after a compensable death:

[an] employer shall pay to or for the benefit of the following particular classes of dependents' weekly income benefits . . . (3) . . . a dependent child or children, thirty per cent (30%) of the average weekly state wage for one (1) child.

This statute contains the mandatory “shall”, directing that payments “shall” be made to a “dependent child.” Idaho Code § 72-413.

A dependent child is defined by Idaho Code § 72-410(1)(a).

The following persons, and they only, shall be deemed dependents and entitled to income benefits under the provisions of this act . . . (1) A child: (a) Under eighteen (18) years of age, or incapable of self-support and unmarried, whether or not actually dependent upon the deceased employee;

Notably, this definition defines a child as one “[u]nder eighteen”, *or* as one “incapable of self-support and unmarried.” The disjunctive *or* creates two categories of children. Minors, and any child “incapable of self-support and unmarried.” When Idaho Code § 72-413 incorporates this definition by authorizing benefits to a “dependent child”, it does so without adding any additional

restrictions. Therefore, the benefits authorized by Idaho Code § 72-413 include benefits to adult child dependents “incapable of self-support and unmarried.”

C. Context of Idaho Code §§ 72-412(2) and 72-413

To interpret the legislature’s intent for adult children incapable of self-support, it is helpful to examine its’ provisions for similarly situated individuals. This context weighs in favor of a dependent adult child.

Interpreting the schedule in Idaho Code § 72-412 as a denial of benefits would result in a surprisingly disparate outcome for the dependent adult child versus the almost-adult dependent child, dependent adult brother, dependent adult sister, and dependent adult grandchild.

In Idaho Code § 72-413, the benefits of brothers, sisters, and grandchildren are also not conditioned upon adulthood. Brothers, sisters, and grandchildren are dependents “if under eighteen (18) years of age, or incapable of self-support, and actually dependent wholly upon the deceased.” Idaho Code § 72-410. Idaho Code § 72-412(5) provides a schedule for payments “during dependency as hereinbefore defined, but in no case to exceed five hundred (500) weeks”, without additional complication. Note the similarities between the definitions of children, siblings, and grandchildren. All definitions cover an adult incapable of self-support, with siblings and grandchildren having the additional requirement of having been “actually dependent wholly upon the deceased.”

All similar individuals are provided a schedule for benefits regardless of an eighteenth birthday. Therefore, this context weighs in favor of providing coverage.

D. Policy of Idaho Code §§ 72-412 and 72-413

Worker’s compensation policy weighs in favor of a claimant. The Commission must “liberally construe the provisions of the worker's compensation law in favor of the employee, in order to serve the humane purposes for which the law was promulgated." *Tenny v. Loomis Armored*

United States, LLC, 168 Idaho 870, 489 P.3d 457 (Idaho 2021)(citing *Clark v. Shari's Mgmt. Corp.*, 155 Idaho 576, 579, 314 P.3d 631, 634 (2013)). 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).

To resolve conflicting statutes "when two statutes relate to the same subject, even though they are in apparent conflict, they are to be construed harmoniously if at all possible." *Edwards v. Industrial Com'n of State*, 943 P.2d 47, 51, 130 Idaho 457, 461 (Idaho 1997). Where two statutes apply to the same subject matter they are to be construed consistent with one another where possible, otherwise the more specific statute will govern. *Huyett v. Idaho State University*, 140 Idaho 904, 908, 104 P.3d 946, 950 (Idaho 2004).

Here, there is no need to construe Idaho Code § 72-412(2) as a prohibition on benefits to an adult dependent incapable of self-support, thereby conflicting with Idaho Code § 72-413. Idaho Code § 72-412 is not structured as an authorization of benefits, but a descriptive provision that defines how benefits are to be handled. It opens by stating "The income benefits for death *herein provided* for shall be payable during the following periods." Idaho Code § 72-412. The "herein provided" incorporates the authorization for benefits given in neighboring statutes. It is Idaho Code § 72-413 which creates dependents right to benefits when it states: "If death results from [a compensable cause] the employer *shall pay* to or for the benefit of the following particular classes of dependents' weekly income benefits [calculated in such a manner]." (emphasis added).

Conclusion

Therefore, Idaho Code § 72-412(2) should be construed in harmony with its neighboring statutes as a supporting provision. The adult children of Decedent may qualify for income benefits under Idaho Code § 72-413, if they can show they were incapable of self-support and unmarried at the time of Decedent's passing.

Order

1. The Petition for Declaratory Ruling meets the standards of JRP 15C.
2. The Commission grants Petitioners request for a declaratory ruling.
3. The adult children of Decedent do not qualify for income benefits under Idaho Code § 72-412.
4. The adult children of Decent may qualify for income benefits under Idaho Code § 72-413, if they can show they were incapable of self-support and unmarried at the time of Decedent's passing.
5. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 27th day of January, 2025.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White

Aaron White, Commissioner

Thomas E. Limbaugh

Thomas E. Limbaugh, Commissioner

ATTEST:

Kamerron Slay

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 28th day of January, 2025 a true and correct copy of the foregoing **ORDER GRANTING PETITION FOR DECLARATORY RULING** was served by regular United States mail or Electronic Mail upon each of the following:

BONNIE SAUSER



TERESA MEATH



JENNIFER CUMMINGS



JENNIFER CUMMINGS



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