

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SHANNON MADISON,
Claimant,

v.

NEW ALBERTSONS, LP,
Employer,

and

ACE AMERICAN INSURANCE CO.,
Surety,
Defendants.

IC 2023-016137

**FINDINGS OF FACT,
CONCLUSION OF LAW,
AND RECOMMENDATION**

Filed
September 15, 2025
Idaho Industrial Commission

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper, who conducted a hearing on bifurcated issues in Boise, Idaho, on July 17, 2025. Claimant represented herself. Sheldon Eilers represented Defendants. The parties produced oral and documentary evidence at hearing and submitted post-hearing arguments and briefs. No post-hearing depositions were taken. The matter came under advisement on August 22, 2025.

ISSUES

The parties agreed to the following bifurcated issues for this adjudication:

1. Whether Claimant suffered an injury arising out of and in the course of her employment¹; and;
2. Whether the condition for which Claimant seeks benefits was caused by the industrial accident.

¹ In briefing, Defendants concede the only issue is that of causation. They did not contest the fact that Claimant had an accident arising out of and in the course of her employment which caused at least a transient injury, thus the first stated issue is not in controversy and needs no further discussion or findings.

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 1

CONTENTIONS OF THE PARTIES

Claimant's position is that on February 13, 2023, while working within the scope of her duties for Employer, Claimant tripped over a box in a walk-in freezer while gathering product she needed to "prep." Claimant's body twisted and she caught herself on a metal bar located in the freezer, which resulted in a large freezer burn on her arm and pain in her low back. The freezer burn healed without residual, but her low back became progressively worse with time. About a month after the accident Claimant sought and gained permission from Employer to see a doctor for her low back. She was diagnosed with two herniated discs. She was placed on light duty work thereafter. Her low back injury and herniated discs were the result of the work accident of February 13, 2023.

Defendants acknowledge Claimant suffered a work accident as described by Claimant. They deny she has met her burden of proof on causation because there is no opinion by any physician relating Claimant's low back condition to the tripping incident on February 13, 2023.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant taken at hearing;
2. Claimant's exhibit (CE) A, admitted at hearing over objection, and
3. Defendant's exhibits (DE) 1 through 5 admitted at hearing.

FINDINGS OF FACT

1. Claimant was 56 years old at the time of hearing, and was living in Sitka, Alaska.
2. On February 13, 2023, while in the course and scope of her duties for Employer, Claimant was carrying a thirty pound box of frozen chicken when she tripped over a box in

the walk-in freezer. She was able to catch herself before falling, but in the process she twisted her low back and incurred a freezer burn on her arm.

3. Claimant went on with her work duties that day. With time, her freezer burn healed without medical treatment, but her low back pain did not resolve in the days immediately following the accident.

4. Claimant informed her manager of the accident the next day, but he did not report it, so Claimant reported the injury to a supervisor.²

CLAIMANT'S MEDICAL RECORDS

5. On or about March 13, 2023, Claimant asked her supervisor if she could seek medical treatment for her back and he sent her to St. Luke's Spine Care Clinic in Meridian. Medical records from that date are incomplete, but Claimant did produce two pages of medical notes from that visit. While Claimant testified she was seen by a physician whose last name was "Peacock" the produced records do not list the provider's name.

6. Produced records from Claimant's March 13, 2023 visit at St. Luke's indicate Claimant's complaints included chronic and progressive low back and left leg pain, which by history were associated with twisting at work "several months" prior to the visit. Her low back condition was associated with left leg pain and bilateral foot numbness and itching.

7. Claimant was diagnosed with paresthesia of both hands, (later confirmed to be bilateral carpal tunnel syndrome) and radicular low back pain. The physical examination produced asymmetric sensory deficits at right C6 through C8, lumbosacral bilateral tenderness,

² The first report of injury, DE 1, lists the date of accident as 2/13/23 and the date it was reported as 2/14/23. The report was prepared on June 19, 2023, and lists Claimant's last day of work as April 30, 2023, the same date the administrator was notified of the accident.

and “mild asymmetric sensory deficit of the right S1 sensory point” with no range of motion limitations or pain elicitation. CE A, p. 4.

8. Under the heading “History of Present Illness” the record indicates Claimant was presenting for initial evaluation, and her condition has “worsened and is unchanged since injury/illness onset.”³

9. A CT scan dated 3/13/23 noted “degenerative disc changes most advanced at L5-S1 with height loss and disc vacuum phenomenon observed which induce L5-S1 moderate bilateral foraminal stenosis, with mild-moderate bilateral subarticular zone stenosis and mild central canal stenosis at this level.” CE A, p. 4. Claimant was referred to physical therapy.

10. The next medical records produced by Claimant were for an April 22, 2023 visit to St. Luke’s emergency department in Meridian. At that time Claimant presented for an exacerbation of her chronic low back pain. No “dangerous medical/surgical” conditions requiring critical intervention were identified. She was taken off work for two days, with light duty restrictions imposed for seven days.

11. Three days later Claimant was seen at St. Luke’s physical medicine department in Boise. Records from this treatment session are incomplete, as the first page in the record has a heading entitled “Letters (continued).” It appears she was seen for her bilateral carpal tunnel issues that day, having completed a nerve conduction study. The records note Claimant was under the care of a Dr. Jacob Radil for her low back issues.

12. On May 18, 2023, Claimant underwent an MRI of her lumbar spine. Under several headings in the medical record of that date, including “Accident Information” and

³ Claimant drew a star next to, and underlined the statement of her condition, as quote above.

“Insurance Coverage” Claimant circled the notations indicating her accident, and her insurance payor, was “workers’ compensation.” She also circled, under the heading “External Causes of Injury” the notation “[o]verexertion from strenuous movement or load[.]” CE A, p. 9.

13. The MRI showed intervertebral disc disorders with radiculopathy, and stenosis in her thoracic spine. Likewise, it showed intervertebral disc disorders with radiculopathy, inflammatory spondylopathy, stenosis without claudication, and spondylosis in her lumbar spine, and intervertebral disc disorders with radiculopathy, spondylopathy, and stenosis in her lumbosacral region.

14. Claimant’s last medical record entered into the record was a single page from her visit at St. Luke’s Spine Care Clinic dated June 6, 2023. It noted Claimant was still having radiating pain from the L5 and/or S1 dermatomes. No discussion of causation was noted.

CLAIMANT’S TESTIMONY

15. Claimant testified she treated with “Dr. Jabob,” (most likely Dr. Jacob Radil, as identified in a medical notation), for her low back. She recalls him telling her that he was “not a workman’s comp doctor.” Tr. p. 38. She thought once the surety contacted her she would switch to “their doctor.” *Id.* This communication and transfer of treating physicians never occurred. Claimant testified that Medicaid paid for this treatment.

16. Claimant moved to Alaska in October 2023 and has seen physicians there for her low back pain. Since moving to Alaska, Claimant has worked in a grocery store and more recently at the post office where she works at the front counter. Work continued to aggravate her back through the time of hearing.

17. Claimant testified that she asked Dr. Jacob for a causation letter but he declined to produce one. She further testified that she felt the medical records she produced establish the necessary causal link but did not point to any particular record during the hearing.

DISCUSSION AND FURTHER FINDINGS

18. Claimant bears the burden of proving the condition for which compensation is sought is causally related to an industrial accident.” *Duncan v. Navajo Trucking*, 134 Idaho 202, 203, 998 P.2d 1115, 1116 (2000). The proof required is “a reasonable degree of medical probability” that the claimant's “injury was caused by an industrial accident.” *Anderson v. Harper's Inc.*, 143 Idaho 193, 196, 141 P.3d 1062, 1065 (2006). “The Commission may not decide causation without opinion evidence from a medical expert.” *Id.* A physician does not render a medical opinion by merely recording the assertion of a patient. *See Meikle v. Alpine Flagging, LLC*, 2001 WL 470656 (Idaho Ind. Com. Apr. 27, 2001).

19. The sole issue for resolution is whether Claimant’s low back condition is causally related to her accident of February 13, 2023. In order to meet her burden of proof Claimant is required to produce *opinion* evidence from a physician, stated to a reasonable degree of medical probability. *Langley v. State, Industrial Special Indemnity Fund*, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995). While no special words are necessary when the medical opinion evidence plainly and unequivocally conveys a doctor’s conviction that the events of the industrial accident and the claimant’s condition are causally related, there must be words in the record which convey that conviction. *See, e.g. Colunga v. Off-Spec Solutions, LLC*, IIC 2018-033881 (January 17, 2025) (Failure to present medical opinion evidence was fatal to claim.) At best, there are several notations to the fact that Claimant asserted this was a “workers’ compensation” case. Nowhere does a physician give a medical opinion linking Claimant’s low back condition to the accident.

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20. To the contrary, the medical evidence establishes the fact that Claimant has degenerative disc disease and stenosis of her spine at multiple levels. This is a long-forming condition which at best could possibly have been aggravated by her work accident. Unfortunately, it would be speculation to assume the accident “lit up” Claimant’s underlying degenerative condition, since no physician has opined to such a link. As noted previously, no matter how sincerely Claimant believes the work accident caused or contributed to her medical condition, the Commission cannot find causation without a persuasive medical opinion, rendered to a reasonable degree of medical probability.

21. Claimant seems to recognize her lack of medical proof when she argues in her closing brief that her lack of medical evidence was caused by Employer’s lack of diligence in reporting the accident. She argues this created an “evidentiary gap.” Without any cite to authority, she claims the Commission could weigh her testimony and the [lack of] medical records “in light of those procedural deficiencies, rather than penalize the claimant for an evidentiary absence” she claims was caused by the employer. C’s Reply Brief, p. 1. This novel theory has two major flaws. First, nowhere in the Act or case law interpreting it is such an exception created. Second, the claimant always carries the burden of proving causation, and never is it the responsibility of the defendants to provide a path for the claimant to obtain such proof. In other words, it was Claimant’s responsibility to obtain the needed opinion, even if that meant hiring a physician who would be willing to render it.

22. In this case Claimant was repeatedly informed she carried the burden of establishing the causal link by way of medical opinion. She knew it was her responsibility to provide such evidence, and knew she could not prevail without it. In spite of that knowledge, she failed to procure and produce such medical evidence.

CONCLUSION OF LAW

When the record as a whole is considered, Claimant has failed to prove by a preponderance of the evidence that her low back condition was caused or contributed to by her industrial accident of February 13, 2023.

RECOMMENDATION

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

DATED this 28th day of August, 2025.

INDUSTRIAL COMMISSION



Brian Harper, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2025, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSION OF LAW AND RECOMMENDATION** was served upon each of the following by the method(s) indicated below:

*By email transmission and
regular United States Mail:*
SHANNON MADISON

By email transmission:
NICOLE O'TOOLE
SHELDON EILERS
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Jennifer S. Komperud

jsk

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ORDER

Filed
September 15, 2025
Idaho Industrial Commission

Pursuant to Idaho Code § 72-717, Referee Brian Harper submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusion of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation.

Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusion of law as its own. Based upon the foregoing,

IT IS HEREBY ORDERED that:

1. When the record as a whole is considered, Claimant has failed to prove by a preponderance of the evidence that her low back condition was caused or contributed to by her industrial accident of February 13, 2023.

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

IT IS SO ORDERED.

DATED this the 15th day of September, 2025.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White

Aaron White, Commissioner

Thomas E. Limbaugh

Thomas E. Limbaugh, Commissioner

ATTEST: *Mary McMenemy*
Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2025, a true and correct copy of the foregoing **ORDER** was served upon each of the following by the method(s) indicated below:

*By email transmission and
regular United States Mail:*

████████████████████
████████████████████
████████████████████
████████████████████

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