

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

REBECCA MCGEHEE,

Claimant,

v.

ST. LUKE’S HEALTH SYSTEM, LTD.,

Self-Insured Employer,

Defendant.

IC 2024-038283

**ORDER GRANTING MOTION FOR
RECONSIDERATION**

**FILED APRIL 9, 2026
IDAHO INDUSTRIAL
COMMISSION**

On February 10, 2026, Self-Insured Employer St. Luke’s Health System, Ltd. (hereinafter, “St. Luke’s or Defendant”) filed a motion for reconsideration of Referee John Hummel’s February 5, 2026, *Order Granting Petition for Change of Physician* (hereinafter, “Order”), and a brief in support of the motion.

Claimant, *pro se*, did not file a response.

INTRODUCTION

Referee Hummel held a telephone hearing with the parties on February 4, 2026, regarding Claimant’s *Request for a Change of Physician*. The sole issue was whether Petitioner had established reasonable grounds to change physicians pursuant to Idaho Code Section 72-432(4). The Referee granted Claimant’s request, reasoning that Claimant has “adequately shown reasonable grounds” that treatment under the new, requested physician would be better suited for her plan of care. *Order*, 9.

Unexpectedly, the recording device failed, and no recording or transcription of the telephone hearing could be recovered. The Referee relied on his detailed notes of the testimony and proceedings. *Order*, 2. Defendant raises several legal challenges to the Order, including the criticism that the *Order* is incomplete and inaccurate, and that the Court’s decision in *Miklos v.*

L&W Supply Corp., requires the recording of such proceedings. *Miklos v. L&W Supply Corp.*, 582 P.3d 60 (Idaho 2026).

STANDARDS FOR RECONSIDERATION

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 that within 20 days from the date of the filing of the decision, any party may move for reconsideration. However, “[i]t 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).

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, 97, 15 P.3d 329, 332 (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.

DISCUSSION

Idaho Code § 72-710 requires a transcription of proceedings or testimony.

Idaho Code § 72-710 requires that “[a] stenographic or machine transcription of any proceeding or of testimony adduced at any hearing, shall be taken by the [C]ommission.” I.C. § 72-710. The Act also states that, in any appeal to this Court, the agency's record and the reporter's transcript must include all relevant portions and documents from the Commission's proceedings

and be prepared, processed, and transmitted to the Supreme Court in accordance with the Supreme Court's rules. I.C. § 72-725.

Unfortunately, the Referee's recording device failed, and no recording or transcription could be made available. Because of this failure, we cannot independently verify what was argued before the Referee. Although our experience assures us that the Referee took thoughtful notes and crafted an order reflecting the proceedings, the technological failure leaves us unable to verify the events in question or satisfy the statutory requirement to have a transcription of any proceeding for review. This prevents the Commission from considering the underlying substantive arguments put forth by the parties as to the correct application of Idaho Code Section 72-432(4) and its requirements.

The Court's recent *Miklos* decision admonished the Commission to adhere to statutory requirements that safeguard the rights of workers' compensation claimants, and the requirement to have a transcription for review. *Miklos*, 582 P.3d at 77–78. Idaho Code § 72-710 requires the Commission to take a stenographic or machine transcription or “*any proceeding or of testimony adduced at any hearing.*” (Emphasis added.) The Commission acknowledges that it has not considered status conferences, prehearing conferences, and contested motions in which only argument was heard, without the testimony of witnesses, in its definition of “proceeding.” Since the *Miklos* decision, the Commission has considered the idea that any contested motion shall henceforth be recorded. The Commission is also working with interested parties including practitioners and Commission members, to determine the proper boundaries of what constitutes a proceeding under the statute. The Commission's historical interpretation of the term “hearing” is consistent with the Court's instructions in *Miklos*; the longstanding practice is to treat petitions for change of physician as hearings and to record the same. Were it not for the technical recording

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failure, a transcript of this hearing would have been produced. Because such cannot be produced on this contested matter, the matter requires a new hearing.

Based on the foregoing, Defendant's request for reconsideration is GRANTED. We hereby VACATE the Referee's Order and refer the matter back to the Referee.

Order

Based on the foregoing, Defendant's request for reconsideration is GRANTED. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

IT IS SO ORDERED.

DATED this 9th day of April, 2026.

INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair



Aaron White

Aaron White, Commissioner

ATTEST:

M. Womer

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 9th day of April, 2026, a true and correct copy of the foregoing **ORDER GRANTING RECONSIDERATION** was served upon the following:

US MAIL EMAIL

US MAIL EMAIL

REBECCA MCGEHEE



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A handwritten signature in cursive script that reads "M. Womer". The signature is written in black ink and extends to the right with a long, thin horizontal stroke.

Commission Secretary