

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PETER HOLLEY,
Claimant,

v.

KOOTENAI COUNTY FIRE & RESCUE,
Employer,

and

IDAHO STATE INSURANCE FUND,
Surety,
Defendants.

IC 2016-026393

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

Filed
May 11, 2026
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 in Coeur d'Alene, Idaho, on January 27, 2026. Claimant represented himself, *pro se*. Paul Augustine represented Defendants. The parties produced oral and documentary evidence at hearing and submitted post-hearing briefs. No post-hearing depositions were taken. The matter came under advisement on March 24, 2026.

ISSUE

The sole issue to be decided is whether and to what extent Claimant is entitled to permanent partial disability attributable in excess of his impairment (PPD).

CONTENTIONS OF THE PARTIES

Claimant injured his left knee while performing job duties in the course and scope of his employment with Employer in 2016. Claimant underwent several surgeries on his knee, leading to a total knee replacement in 2023, and revision surgery in 2024. He went through extensive rehabilitation. He also began having left hip issues, including a torn labrum. While he felt his hip

condition was related to his knee injury, Surety denied his claim. Claimant underwent hip surgery thereafter, and at the time of hearing is scheduled for a second hip surgery.

During his multi-year ordeal involving his knee, Claimant returned to college and obtained a bachelor's degree in para-medicine with the goal of moving into an administrative position. With his additional education, Claimant was able to ascend to his time-of-hearing position as fire chief. However, while Claimant is currently the fire chief, his medical restrictions would prevent him from returning to a firefighting position, or any job requiring ladder climbing or crawling. Because of this he seeks benefits for permanent partial disability.

Defendants deny Claimant is entitled to benefits for permanent partial disability in excess of his permanent partial impairment. Claimant's present and probable future ability to engage in gainful activity certainly is not diminished compared to his time-of-injury prospects. He makes considerably more money in his current position than he did at the time of his injury, and his job duties in his current and future probable occupations are not hampered by his injury. While he could not return to a line firefighter with his knee injury, he has moved on from that line of work into an administrative line of work, which defines his career path moving forward. Furthermore, any disability is fully accounted for in his permanent partial impairment rating of 37% lower extremity.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant taken at hearing;
2. Joint Exhibits 1-15, admitted at hearing.

FINDINGS OF FACT

1. At the time of hearing Claimant was 48 years old.

2. In 2011, Claimant began his career with Employer as a firefighter paramedic, also described herein as a line firefighter.

3. On September 11, 2016, while fighting a field fire, Claimant stepped into a hole or uneven ground, injuring his left knee.

4. Persistent pain led to an MRI which led to an OATS (Osteochondral Autograft Transplant Surgery) surgery in February 2017 in an attempt to repair damaged cartilage in his left knee, with physical therapy thereafter. The surgery did not end Claimant's complaints.

5. Claimant's next surgery involved microdrilling, in which small holes are drilled into the bone to stimulate bleeding and hopefully regenerate cartilage. This surgery was unsuccessful.

6. Claimant testified that immediately after the microdrilling procedure, he was informed by his treating physician, Roger Dunteman, M.D., that the damage to Claimant's knee was worse than anticipated, and he would refer Claimant to a specialist in Spokane. Claimant further testified that it was during this conversation he realized he should transition to a more administrative position and needed additional education to do so. At that time, Claimant had an associate's degree in paramedics.

7. Claimant enrolled at Central Washington University and obtained a bachelor's degree in para-medicine in 2020. Claimant's goal was to "move into the office" of EMS division chief.

8. In 2020, Claimant was released without restrictions to his firefighting position, but his left knee issues were not over.

9. Claimant last worked as a line firefighter in 2021, before being promoted to Division Chief of EMS, which was more of an office job.

10. Claimant had continuing issues with his left knee, and in October of 2023, he underwent a total knee replacement surgery. Not long thereafter, Claimant had surgery on his left hip to repair a torn labrum.

11. In May 2024, Claimant had revision surgery on his left knee to replace hardware. At the time of hearing, Claimant was in line for left hip surgery and testified that ultimately he likely will need a hip replacement. During this timeframe Claimant continued to move up the ranks, from Division Chief to Deputy Chief of Operations, to Fire Chief of Kootenai County Fire and Rescue, which position he had obtained just prior to the hearing.

12. Claimant was released to full work duties without restrictions in December 2024, for his then-current position of Deputy Chief of Operations. In September 2025, Claimant sought and obtained a set of restrictions based on his past duties as line firefighter, which included no ladder climbing, crawling or emergency maneuvers, and no line firefighting.

13. Claimant received an impairment rating of 37% lower extremity, which was paid by Surety in the sum of \$29,344.70.¹

DISCUSSION AND FURTHER FINDINGS

14. In this case, Claimant seeks benefits for permanent disability in excess of the 37% lower extremity medical disability (commonly referred to as permanent partial impairment or PPI) previously paid to him by Defendants. The burden of establishing the existence and extent of permanent disability in excess of PPI rests with Claimant. *Seese v. Idaho of Idaho, Inc.*, 110 Idaho 32, 714 P.2d 1 (1986).

¹ Defendants note the payment of \$29,344.70 erroneously failed to subtract out a previous PPI payment made to Claimant in the sum of \$18,241.30, which resulted in overpayment of PPI in the sum of \$18,241.30. However, that alleged overpayment is not at issue in this decision.

15. Permanent disability results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected. Idaho Code § 72-423. Evaluation (rating) of permanent disability is an appraisal of the injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of impairment and by pertinent nonmedical factors provided in Idaho Code § 72-430. Idaho Code § 72-425.

16. Idaho Code § 72-430(1) provides that in determining percentages of permanent disabilities, account should be taken of the nature of the physical disablement, the disfigurement if of a kind likely to handicap the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his or her age at the time of the accident causing the injury, consideration being given to the diminished ability of the affected employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the Commission may deem relevant. The test for determining whether a claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction with nonmedical factors, has reduced the claimant's capacity for gainful employment." *Graybill v. Swift & Company*, 115 Idaho 293, 294, 766 P.2d 763, 764 (1988).

17. The focus of a determination of permanent disability is on a claimant's ability to engage in gainful activity. *Sund v. Gambrel*, 127 Idaho 3, 7, 896 P.2d 329, 333 (1995). The extent and causes of permanent disability are factual questions committed to the particular expertise of the Commission. *Thom v. Callahan*, 97 Idaho 151, 155, 157, 540 P.2d 1330, 1334, 1336 (1975).

The proper date for disability analysis is the date of the hearing, not the date the injured worker reached maximum medical improvement. *Brown v. Home Depot*, 152 Idaho 605, 272 P.3d 577 (2012).

18. The main thrust of Claimant's argument centers on the fact he could no longer return to his former job of line firefighter and thus he is entitled to permanent disability benefits for that loss.

19. Claimant's arguments boil down to two components – he is precluded from the profession of firefighter due to his knee injury, and his decision to obtain additional education allowing him to start a new, administrative career path was “forced” upon him by his injury and therefore should not be considered when evaluating his PPD. These two components will be explored in inverse order below.

Additional Education

20. Claimant argues he was “forced” to get his bachelor's degree due to the fact he recognized that he would not be able to remain a line firefighter with his knee injury. While one might quibble with his characterization that he was “forced” to obtain a degree, because it was a voluntary choice he made when looking into the future and recognizing his predicament, the fact is that under Idaho's worker's compensation system, the reason one obtains additional education, or training, or retraining, is irrelevant.

21. There is no provision for a “forced education” exemption from reality. Defendants are not required to ignore the fact Claimant bettered himself by obtaining further education and now reaps the benefits of that decision. The fact that “but for” Claimant's injury he would or could have continued, perhaps for some years, to be a line firefighter/paramedic, is of no consequence. The consequential question is “at the time of hearing how has Claimant's present and probable

future ability to engage in gainful activity been reduced by his injury?”

22. Before becoming a firefighter/paramedic, Claimant ran a construction company which built decks and fences. The recession “forced” him to look at other options, and he had always wanted to be a firefighter, so he obtained training and an education (associate’s degree in paramedics) to help further that career. It is a recurring pattern with Claimant that adversity (a recession or an injury) caused re-evaluation and personal betterment through education, leading to a new career. That mindset is laudable, smart, and beneficial to Claimant’s ability to earn a living for himself and his family.

23. Claimant’s adversity in his firefighting career led to personal growth and economic betterment. He could have wallowed in self-pity, taken no action to make himself employable outside of firefighting, and received some permanent disability benefits for a period of months. He chose the better path, obtaining education, and carving out a career for himself as a fire chief. As Claimant’s career trajectory moved away from firefighting, so did the chance that he would ever need to return to that profession.

24. The factors to be considered when analyzing permanent disability do not greatly diminish Claimant’s ability to compete in his open labor market. He is not disfigured in any noticeable way, *e.g.* facial scarring, missing limbs, readily observable anatomical abnormalities. Instead, he presents as an intelligent, articulate, well-groomed professional-looking individual. Claimant testified he has no inability to perform all duties of his current Fire Chief position. His age is not a factor which would increase his disability. His only complaint is that he cannot return to line firefighter, a job which he has no intention of seeking, now or in the future.

Loss of Firefighter Occupation

25. It is clear that at age 48, with a hip in need of surgery, with knee replacement surgeries in his past (and perhaps in his future), and with the rigorous demands required of a line firefighter, it is improbable to believe Claimant would attempt to return to such an occupation, nor does he have any incentive to do so. His career has taken a different, and more lucrative trajectory.

26. Claimant testified that even without his knee injury he would not go back to line firefighting at this stage of his career. The fact he could not do what he would not do anyway does not constitute a significant permanent disability.

27. As noted by Defendants, the case of *Oliveros v. Rule Steel Tanks*, 165 Idaho 53, 438 P.3d 291 (2019), is instructive. Therein, the claimant suffered a permanently disfiguring hand injury while in high school. He was assigned a 32% whole person impairment for his injury. He continued his education after his injury and eventually landed an office job with Albertsons.

28. The Commission found that Mr. Oliveros' impairment fully accounted for his disability and awarded no permanent disability in excess of impairment. Claimant's employment opportunities were the direct result of his education pursued after his injury. While his education allowed for increased employment opportunities, it had the effect of decreasing his permanent disability claim.

29. In the present case, Claimant's education obtained after his injury led to administrative positions within his chosen field of interest which presented greater economic opportunities but have the effect of lowering his disability claim.

30. Disability depends on both job market access and wage loss components. Here, due to Claimant's decision to pursue education which would qualify him for administrative positions, his job market access shifted from physical, labor intensive work such as firefighter, to administrative office jobs.

31. Obviously, though, there are more firefighter positions in any locale than fire chiefs, and maintaining that position could require Claimant to relocate to where the positions are available should he lose his position in Kootenai County. Claimant testified that is exactly what might be required in the future, depending on how long he keeps his position with Kootenai County.

32. If Claimant lost his current job, for him to remain in the position of fire chief, or deputy fire chief, or some other administrative position within the field of firefighting, a job opening must exist elsewhere, and he must apply, compete with, and prevail over, other applicants. It is not a given that such would happen. If he could not land such a position, he might need to look for other work, and that is where his permanent impairments would come into play.

33. Claimant could not return to line firefighting, but he could assume any number of administrative positions in the field of paramedics/firefighting. Claimant has transferable skills from his current position, his past administrative positions, and even his early career running a fencing/decking construction business.

34. The reality is such that as Claimant has ascended to the peak of his profession, he has acquired skills that will allow him to remain in the administrative side of his profession. He has lost access to the more physical job of firefighting, but he testified he would not likely return to that work even if he did not have medical limitations. Those

jobs are more likely than not “water under the bridge.” However, Claimant’s reward is a career full of benefits which dwarf whatever benefits would have been available to him under the worker’s compensation system.

35. Claimant argues that impairment and disability are two separate, distinct measures of benefits, and he would be entitled to both independently of the other. This concept is incorrect, even if it was adopted for a short time by the Idaho Supreme Court. *See, Corgatelli v. Steel West, Inc.*, 157 Idaho 287, 335 P.3d 1150 (2014).

36. In *Oliveros, supra*, the Idaho Supreme Court overruled *Corgatelli* and confirmed that there is no true “impairment” award, and what is often called permanent partial impairment is actually a form of disability. As noted therein, “payments made for partial impairment are subsumed by, and part of, the final disability award.” The Court also pointed out that money paid for “impairment” is actually money paid for disability.

37. Permanent impairment is a component of permanent disability. Therefore, to obtain additional monies over those awarded for permanent impairment, Claimant must prove a disability from all factors greater than the medical disability, or permanent partial impairment. *Oliveros* at 59, 297.

38. Claimant’s new job market is administrative, and in those types of jobs Claimant has no disability. Should he be forced to return to more physical jobs at some point during his remaining work life (which he acknowledged is unlikely), his knee would limit some of those jobs. There are many, many jobs other than firefighter that Claimant could do even with his medical disabilities. His education, intelligence, and past history would allow him to transfer into any number of jobs other than firefighter. In fact, other than firefighter, or other similar jobs requiring ladder climbing or crawling, Claimant’s job potential is vast.

Even within the field of firefighting/paramedics, Claimant could train, teach, speak at seminars, hold himself out as an expert witness, etc.

39. Claimant has not proven his loss of labor market access is greater than the 14.8% (37% lower extremity x .4 to convert to whole person) whole person disability rating he was awarded in the form of permanent partial impairment. His impairment benefits paid to date fully account for his disability.

40. When the totality of the record is examined, Claimant has failed to prove he is entitled to permanent disability benefits over and above the 14.8% whole person medical disability/impairment benefits previously paid to him by Defendants.

CONCLUSION OF LAW

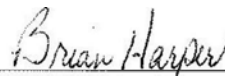
When the totality of the record is examined, Claimant has failed to prove his right to permanent partial disability benefits above the 14.8% whole person medical disability/impairment benefits previously paid to him by Defendants in the sum of \$29,344.70.

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 22nd day of April, 2026.

INDUSTRIAL COMMISSION



Brian Harper, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2026, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by email transmission and regular United States Mail upon each of the following:

PETER HOLLEY

[REDACTED]
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KOOTENAI COUNTY FIRE & RESCUE,
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ORDER

Filed
May 11, 2026
Idaho Industrial
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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 totality of the record is examined, Claimant has failed to prove his right to permanent partial disability benefits above the 14.8% whole person medical disability/impairment benefits previously paid to him by Defendants in the sum of \$29,344.70.

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

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ORDER - 1

IT IS SO ORDERED.

DATED this the 11th day of May, 2026.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White

Aaron White, Commissioner

ATTEST:

Mary McMenemy

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2026, a true and correct copy of the foregoing **ORDER** was served by email transmission and regular United States Mail upon each of the following:

PETER HOLLEY



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