BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DARRELL NOBLE, Claimant, v. INDUSTRIAL VENTILATION, INC., Employer And OLD REPUBLIC INSURANCE COMPANY, Surety, Defendants	**I.C. No.: 2019-009626** **ORDER DENYING REQUEST FOR RECONSIDERATION** **FILED NOVEMBER 10, 2026** **IDAHO INDUSTRIAL COMMISSION**

This matter is before the Idaho Industrial Commission ("Commission") upon Claimant's Request for Reconsideration.

Claimant is represented by Joel A. Beck. Defendants are represented by Chad Walker.

Claimant files a timely Motion for Reconsideration of the Commission's August 4, 2026, Order Denying Petition for a Declaratory Ruling. Claimant argues that he erred when labeling the April 24, 2026, document as a Petition for Declaratory Ruling and that it was substantively a motion for reconsideration. Claimants Mot. for Recons. 1. Claimant continues to assert that his initial petition for declaratory ruling should now be construed as a motion for reconsideration by the Commission based on the substantive argument presented. *Id*. Claimant requests that the Commission alter the Referee's bifurcation order and move the issue of the extent of Claimant's entitlement to permanent disability in excess of impairment (PPD), including whether Claimant is totally and permanent disabled under odd-lot doctrine (PTD), to the first hearing, deferring the issues of ISIF liability[1] and *Carey* apportionment for the second hearing. *Id*. Claimant contends

[1] Per Idaho Code § 72-332, ISIF liability is established by four prongs once total and permanent disability has been established.

that deferring the PPD/PTD issue to a later hearing unduly prejudices Claimant, when ISIF liability and *Carey* apportionment could be decided without Claimant. *Id*. at 14. Claimant additionally requests that the first hearing be re-set, and requests a guaranteed date for a second hearing with the ISIF. *Id.* at 2.

Defendants filed a timely response to the Motion for Reconsideration. Defendants assert that Claimant identifies no legal error in the Referees bifurcation order or in the Commission's authority to bifurcate with discretion. Def. Response to Claimant's Mot. For Recons. 1.

The Commission has considered both parties' arguments, the procedural history of this matter, and all applicable statutes and rules. While we are sympathetic to Claimant's request, the procedural matters raised are best resolved by the assigned Referee.[2] As discussed below, the Commission denies Claimant's Motion for Reconsideration and refers the matter to the Referee for her consideration.

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.*

[2] We urge Claimant to clearly identify their pleadings to avoid confusion over the intent.

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

Once a case has been assigned to a Referee, they have discretion to manage the case proceedings. *See* § 72-717. The noticed issues are a procedural matter that falls under the judgment of the assigned Referee. *Id.*; *see Hewson V. Asker's Thrift Shop*, 120 Idaho 164, 168, 814 P.2d 424, 428 (1991). As a procedural matter, the Referee's decisions are reviewable under an abuse of discretion standard.

The four essentials of that test are whether the hearing officer: "(1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of [her] discretion; (3) acted consistently with the legal standards applicable to the specific choices available to [her]; and (4) reached [her] decision by the exercise of reason." *McGivney v. Aerocet, Inc.*, 165 Idaho 227, 232, 443 P.3d 241, 246 (2019) (citing *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)). *Hewson V. Asker's Thrift Shop*, 120 Idaho 164, 168, 814 P.2d 424, 428 (1991).

In this case, Referee Rauschendorfer appropriately exercised her discretion in determining the hearing issues for the first hearing. The Referee allowed both parties to present arguments, and the proposed bifurcation of issues is allowable. The Referee correctly perceived the issue to be one within her discretion and then used that discretion appropriately. However, now that Claimant has presented new information about a decline in condition, it is appropriate for the Referee to consider whether this new information warrants re-structuring of the hearing issues.

Claimant acknowledges in the Motion for Reconsideration that interlocutory review is reserved for extraordinary circumstances and argues that those circumstances are present due to a "progressive cognitive impairment" that may result in Claimant being unable to testify in future hearings. Claimants Mot. for Recons. 11. The Referee's exercise of discretion is entitled to deference unless it amounts to an abuse of discretion, which is not the case here. The Referee assigned to oversee this matter deserves the opportunity to consider whether the new information about the Claimant's declining condition warrants restructuring the hearing issues.

As is well-established, the "process and procedure under the Workmen's Compensation Act are designed to be as summary and simple as is reasonably possible." *Hattenburg v. Blanks*, 98 Idaho 485, 485, 567 P.2d 829, 829 (1977); I.C. §72-708. The Workers' Compensation Act is to be construed liberally in favor of a claimant. *Id*. In addition, the Commission recognizes that disability less than total is inheritable whereas total and permanent disability benefits are not. *Mayer v. TPC Holdings, Inc.*, 160 Idaho 223, 227-228 (May 2016). While Claimant has raised multiple reasons to restructure the hearing issues, we believe the assigned Referee is in the best position to weigh these arguments and provide a prompt resolution of the matters raised. Therefore, we refer the matter to the Referee for her consideration.

ORDER

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

IT IS SO ORDERED.

DATED this 10th day of November, 2026.

INDUSTRIAL COMMISSION

Claire Sharp, Chair

Aaron White, Commissioner

George Gutierrez, Commissioner

ATTEST:

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 10th day of November, 2026, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served upon the following:

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