

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

RYAN WALKER,

Claimant,

v.

BONNEVILLE JOINT SCHOOL DIST. NO.
83,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants.

IC 2010-014146

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Filed February 5, 2019

On January 14, 2019, McBride filed a timely second motion to reconsider the Commission's December 24, 2018 order on attorney's fees in the above captioned matter. Claimant did not respond.

Mr. McBride argues that the December 24, 2018 order is ambiguous because the Commission declined to order prospective fees on future medical care but did not preclude an additional motion for fees after such care is obtained. Mr. McBride requests clarification and requests the Commission retain jurisdiction for this potential prospective fee. Mr. McBride argues it is "inconsistent" to require him to pay Claimant amounts owed to Claimant and not allow Mr. McBride "credit" for his work on benefits already obtained.

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. Idaho Code § 72-718. However, "[i]t is axiomatic that

a claimant must present to the Commission new reasons factually and legally to support a hearing on her 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).

On reconsideration, the Commission will examine the evidence in the case and determine whether the evidence presented supports the legal conclusions. The Commission is not compelled to make findings on the facts of the case during reconsideration. Davidson v. H.H. Keim Co., Ltd., 110 Idaho 758, 718 P.2d 1196 (1986). 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, 15 P.3d 329 (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.

Mr. McBride’s “second” motion for reconsideration will not be considered. We have already “reconsidered” our original August 30, 2018 Order in our December 24, 2018 Order Granting Reconsideration; moreover, Mr. McBride argued for a fee on prospective medical benefits in his prior motion for reconsideration, similar to his arguments here. We decline to reconsider it a second time.

ORDER

Based upon the foregoing reasons, Mr. McBride’s Second Request for Reconsideration is hereby **DENIED**. IT IS SO ORDERED.

DATED this ___5th___ day of ___February___, 2019.

INDUSTRIAL COMMISSION

_____/s/_____
Thomas P. Baskin, Chairman

_____/s/_____
Aaron White, Commissioner

_____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the __5th__ day of __February__, 2019, a true and correct copy of the **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

RYAN WALKER
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MICHAEL MCBRIDE
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snr

_____/s/_____