

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SHERRI S. CORONADO,

Claimant/Petitioner,

v.

CITY OF BOISE,

Employer,
Self-Insured,
Defendant/Respondent.

IC 2019-015657

**ORDER DENYING JANUARY 4, 2024
PETITION FOR DECLARATORY
RULING**

FILED

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INDUSTRIAL COMMISSION

This matter is before the Idaho Industrial Commission upon Petitioner's *JRP 15 Petition for Declaratory Ruling On Employer's Complaint*, filed on January 4, 2024. Petitioner requests a ruling that a complaint filed by an employer or surety against a worker falls outside the jurisdiction of the Idaho Industrial Commission granted in I.C. § 72-706 or violates form requirements. Petitioner requests sanctions against Respondent. Respondent disagrees, and requests sanctions against Petitioner.

For the reasons discussed below, the Commission denies the petition for declaratory judgment. I.C. § 72-707 grants the Commission jurisdiction over "[a]ll questions arising under [worker's compensation] law," and the Commission may receive a complaint regardless of whether an employer or surety files. This finding is supported by the statute's plain language, Idaho Supreme Court precedent, prior Commission decisions, and worker's compensation policy. I.C. § 72-706 is a statute of limitations and does not govern who may file a complaint. Also, the form requirements in the JRP rules do not exclude an employer's complaint or prohibit modifications. The form modifications made by Respondent substantially comply with rule requirements and are permissible. No sanctions will be issued.

ISSUES

1. Whether a declaratory ruling under JRP 15 is procedurally proper.
2. Whether the Idaho Industrial Commission has jurisdiction to receive a complaint filed by an employer or surety against a worker under the provisions of I.C. § 72-706, 72-707 or 712.
3. Whether the provisions of JRP3(A), JRP 4, and JRP Appendix 1 prevent an employer or surety from filing a complaint.
4. Whether Petitioner or Respondent is entitled to sanctions under JRP 16.

ARGUMENTS OF THE PARTIES

Petitioner seeks an order from the Commission holding that the right to file a complaint is exclusively granted to workers. An employer's or surety's complaint violates the policy of the Idaho Worker's Compensation Act and is outside the grant of jurisdiction given to the Idaho Industrial Commission in Idaho Code § 72-706. Any JRP rules or Idaho Industrial Commission cases which permit such a filing exceed the Commission's statutory jurisdiction. Alternatively, Petitioner alleges that Respondent cannot file a complaint because it would require altering the prepared complaint form in JRP Appendix 1.

Respondent argues that an employer may file a complaint. Petitioner's argument that I.C. § 72-706 does not provide authority for a complaint is misplaced. Idaho Code § 72-707 gives the Industrial Commission jurisdiction over "[a]ll questions" arising under worker's compensation law. I.C. § 72-712 permits "any party to the proceeding" to request a hearing. JRP 1(A) also states that "[a]ny party to a controversy may apply to the Commission for relief." JRP 4 does not prohibit Employer from filing a complaint. Among other authority, Respondent cites cases from the Supreme Court where the complaint was filed by an employer, and to *Jewell v. State Dept. of*

Environ. Quality, 2012 IIC 0036 (2012), where the Commission directed the employer/surety to “file a complaint and bring the requested issue [of permanent disability] to adjudication through the normal process.” As to Petitioner’s policy argument, Respondent points out that worker’s compensation is withdrawn from private controversy and is not analogous to tort proceedings. An employer is permitted to seek a determination regarding the extent of its own statutory liability.

In reply, Petitioner has argued that I.C. § 72-707 and JRP 1 cannot be considered here. Respondent’s complaint was filed under I.C. § 72-706, and utilized a modified form referenced in JRP3(A). Additionally, I.C. § 72-712 does not grant the right to file a complaint, but only to participate in the proceedings after a complaint is filed. Finally, the precedent relied upon by Respondent is either from the Industrial Commission, and therefore not authoritative compared to statute, or does not support Respondent’s position.

FACTS

1. On May 29, 2019, Petitioner was working as a police officer for the City of Boise. Exhibit (“Ex.”) U.¹ She suffered an injury to her right hip which was found to be in the course and scope of employment and received benefits. *Id*; Ex. B, G, Z, 16.
2. On June 1, 2020, Respondent informed Petitioner that a left hip claim based on the same work-related accident was not accepted, and Respondent would not be authorizing payment related to the left hip. Ex. M.
3. On June 9, 2020, shortly after entering his appearance, Petitioner’s counsel revoked all medical releases. Ex. 9, N. After Claimant did not attend an IME appointment, Respondent

¹ The Commission takes judicial notice of the exhibits previously provided in this case by the parties in support of the November 6, 2023, petition for declaratory relief. Exhibits A-Y may be found attached to *Defendant’s Response to Claimant’s Petition for Declaratory Ruling and Motion for Sanctions*, filed November 17, 2023. Exhibits 1-16 may be found attached to *JRP 15 Petition for Declaratory Ruling and Affirmative “Arreola” Relief*, filed November 6, 2023. Exhibits 18-20 may be found attached to *Claimant’s Reply Memorandum In Support of JRP 15 Petition for Declaratory Ruling and Affirmative “Arreola” Relief*, filed December 15, 2023.

notified Claimant that her benefits would be suspended. Over the next several months, Respondent unsuccessfully attempted to get access to medical records and an independent medical examination. Ex. 13, R.

4. Respondent was unable to ever arrange an independent medical examination or acquire additional medical records. In May 2021, Dr. Timothy E. Doerr issued an opinion based on record review finding the work accident did not cause Petitioner's left hip condition. Petitioner's right hip was at maximum medical improvement and suffered 10% WPI. Ex. U. Respondent sent Petitioner checks with payment of permanent partial impairment per Dr. Doerr's opinion. Petitioner's counsel rejected payment and returned the checks. Ex. V, Y, X.

5. Over two years later, on November 6, 2023, Petitioner filed a petition for a declaratory ruling demanding that Respondent comply with *Arreola v. Scentsy, Inc.*, 531 P.3d 1148 (Idaho 2023). That petition was litigated separately from the question currently presented, and was recently decided in Respondent's favor by the Commission.

6. Within two weeks, on November 16, 2023, Respondent filed a worker's compensation complaint utilizing the form provided in JRP Appendix 1. Among the issues, Respondent listed the date of medical stability, causation of the left hip condition and need for surgery, entitlement to temporary disability and permanent disability benefits, and whether there was an unreasonable refusal to participate in an independent medical examination.

7. Respondent requested discovery and to depose Petitioner.

8. Petitioner filed a motion to strike or dismiss the complaint. Respondent objected. The legal issues and arguments were substantially the same as those presented now. On December 19, 2023, the referee summarily denied the motion. Petitioner was given twenty days to file an answer to the complaint.

9. No motion to reconsider or appeal was filed.

10. On January 4, 2024, Petitioner filed the present petition for declaratory relief.

11. After the 20 days identified in the referee's order to file an answer had expired, on January 23, 2024, Petitioner requested the Commission provide "clarification" that the complaint proceedings had been stayed when the petition for declaratory relief was filed. The Commission held that proceedings on the complaint were stayed as of the date the petition for declaratory relief was filed. All proceedings on the complaint will remain stayed pending resolution of the present petition for declaratory judgment, including during any reconsideration or appeal.

DISCUSSION

I. Declaratory Judgment Under JRP 15 Is Proper.

12. The first question is whether a declaratory ruling is procedurally proper. A party may request a declaratory judgment to resolve a dispute with a written petition when there is "an actual controversy over the construction, validity or applicability of a statute, rule, or order." JRP 15(C).

1. The petitioner must expressly seek a declaratory ruling and must identify the statute, rule, or order on which a ruling is requested and state the issue or issues to be decided;
2. The petitioner must allege that an actual controversy exists over the construction, validity or applicability of the statute, rule, or order and must state with specificity the nature of the controversy;
3. The petitioner must have an interest which is directly affected by the statute, rule, or order in which a ruling is requested and must plainly state that interest in the petition;

Id. A supporting memorandum must also be filed. *Id.* "The Commission may hold a hearing on the petition, issue a written ruling providing guidance on the controversy or decline to make a ruling when it determines that there is no controversy or that the issue at hand is better suited through resolution in some other venue, or by some other administrative means." *Miller v.*

Yellowstone Plastics, Inc., 100722 IDWC, IC 2019-024650 (Idaho Indus. Comm'n, 2022).

13. Here, the parties have expressly identified relevant statutes and rules. The issue is whether any of these will provide Respondent with jurisdiction to file a complaint before the Idaho Industrial Commission or will prevent Respondent from filing a complaint on procedural grounds. There is an actual controversy and direct interest in the answer to this question, since the answer to the jurisdictional question will control whether the complaint is dismissed. Petitioner has plainly stated the interest in the petition, which is a ruling that an employer's complaint – and thus Respondent's complaint – is outside the Commission's jurisdiction. Thus, a declaratory ruling is supported here.

14. Under JRP 15(F)(4), the Commission "may" decline to issue a declaratory ruling when "[t]he issue on which a determination is sought is or should be the subject of other administrative or civil litigation or appeal."

15. This matter should have been addressed via a motion to reconsider filed from the referee's order. The arguments presented are substantially identical to those raised before the referee; one of Petitioner's new arguments specifically references that the referee's order lacked supporting explanation. Also, the issues raised by the Petition could have been fully litigated in a motion to reconsider. Therefore, a request for reconsideration would have been the better procedural option.

16. However, referring the parties back to the correct procedure will only delay resolution of the issue without obtaining any advantage in terms of judicial efficiency or analysis. The Petition has already been fully briefed and argued. It would also be prejudicial as the time to file a motion to reconsider has passed. Therefore, the Commission will decide the matter here.

II. The Idaho Industrial Commission Has Jurisdiction to Receive An Employer's Complaint Under I.C. § 72-707.

17. The Commission finds that I.C. § 72-707 provides jurisdiction to hear a complaint filed by an employer or surety. This is supported by Idaho Supreme Court precedent, prior decisions of the Idaho Industrial Commission, the JRP rules, and policy behind the Idaho Worker's Compensation Act.

A. The Commission Has Jurisdiction To Adjudicate An Employer's Complaint And Proceed To Hearing Under the Plain Language of I.C. §§ 72-707 and 712.

18. The Idaho Industrial Commission is an administrative agency and as such receives its authority only as legislatively granted. *See Welch v. Del Monte Corp.*, 128 Idaho 513, 514, 915 P.2d 1371, 1372 (1996). The Idaho legislature has granted the Idaho Industrial Commission its jurisdiction under the plain language of I.C. § 72-707, which is entitled "COMMISSION HAS JURISDICTION OF DISPUTES" and reads as follows:

All questions arising under this law, if not settled by agreement or stipulation of the interested parties with the approval of the commission, except as otherwise herein provided, shall be determined by the commission.

Id. The phrase "this law" references the Worker's Compensation Act found under Title 72 of Idaho Code. *See* I.C. § 72-101. Shortly thereafter, Idaho Code provides that the Commission shall holding hearings to determine disputes "upon application of any party to the proceeding." I.C. § 72-712. Under the statute's plain language, the Commission has jurisdiction over a case based on whether the subject concerns a question "arising under this law," regardless of whether the complaint was filed by an employer or a worker.

B. Supreme Court Precedent Supports The Finding That The Commission Has Jurisdiction Over An Employer's Or Surety's Complaint.

19. There are three ways that Idaho Supreme Court precedent supports the finding that an employer or surety may file a complaint.

i. The Idaho Supreme Court has affirmed jurisdiction in cases where an employer or surety filed the complaint.

20. First, the Idaho Supreme Court has previously affirmed the jurisdiction of the Idaho Industrial Commission to adjudicate a complaint filed by an employer or surety, even against a worker. *See Brooks v. Standard Fire Ins. Co.*, 117 Idaho 1066, 793 P.2d 1238 (1990); *Basin Land Irr. Co. v. Hat Butte Canal Co.*, 114 Idaho 121, 754 P.2d 434 (1988).

21. In the case of *Basin Land Irr. Co. v. Hat Butte Canal Co.*, 114 Idaho 121, 754 P.2d 434 (1988), the Idaho Supreme Court held that an employer's complaint filed with the Idaho Industrial Commission satisfied the first-to-file rule for jurisdictional purposes. *Id.* at 123, 436. In the facts of that case, Basin Land, an employer, filed an application for hearing before the Idaho Industrial Commission to determine the worker's employment status at the time of the accident. *Id.* The worker later amended an ongoing tort claim in district court to add Basin Land as a defendant. *Id.* Basin Land defended against the tort using the exclusive remedy rule, which depended on the existence of an employment relationship. Basin Land contended the Idaho Industrial Commission had jurisdiction to determine the issue, rather than the district court where the worker had filed, as Basin Land filed its complaint first.

22. The Idaho Supreme Court accepted this argument. It held that Basin Land's complaint before the Commission won the race to file, and the Commission properly adjudicated the employer/employee relationship. *Id.* The Court reasoned that "there is nothing improper about an employer using the Worker's Compensation Law as a defense against civil tort liability." *Id.* However, the Idaho Supreme Court also held that as the moving party, Basin Land

was the claimant and bore the burden of proof. *Id.* at 437-38, 124-25.

Although the [standard for the burden of proof] is couched in language directed towards employees as claimants, the critical language is that the claimant has the burden of proof. The instant case is unique in that rarely does an employer come before the Industrial Commission as a claimant. One of the fundamental rules of procedure is that the party seeking affirmative relief has the burden of proof.

Id. at 123, 436.

23. In the case of *Brooks v. Standard Fire Ins. Co.*, 117 Idaho 1066, 793 P.2d 1238 (1990), the Idaho Supreme Court held the Industrial Commission had subject matter jurisdiction over a “claim for reimbursement or contribution brought by a surety against another surety.” *Id.* at 1069, 1241. “The question of which of the two sureties is responsible for claimant's injury is a ‘question arising under this law’ as provided in I.C. § 72-707, and is a proper case to be determined by the Industrial Commission.” *Id.* at 1069, 1241. In its reasoning, the Court cited that:

Idaho Code § 72-201 provides that all actions and claims which involve issues relating to a worker's injury are within the exclusive jurisdiction of the Industrial Commission. In addition, the legislature has specifically granted jurisdiction over all disputes and questions arising under the worker's compensation laws to the Industrial Commission in order to provide “sure and certain relief” for injured workers.

Id.

24. Both *Basin Land* and *Brooks* were filed by an employer or surety, not a worker. If the Commission's jurisdiction required that a worker file the complaint, neither of these cases would have been within the Commission's jurisdiction. *Basin Land* is particularly relevant here due to its factual similarity. Just as in *Basin Land*, this case involves an employer filing a complaint to determine a worker's coverage under the worker's compensation act where the worker objects. Therefore, these cases support the Commission's jurisdiction to hear an employer's complaint.

- ii. *The jurisdiction of the Idaho Industrial Commission to receive complaints filed by an employer or surety is necessary to comply with directives of the Idaho Supreme Court.*

25. Second, the Commission necessarily has jurisdiction to hear an employer's complaint as the Idaho Supreme Court *requires* employers and sureties to initiate proceedings against workers to enforce certain statutes. In the recent case of *Arreola v. Scentsy, Inc.*, 531 P.3d 1148, 1154 (2023), which Petitioner's counsel litigated, the Court held a surety cannot "unilaterally invoke and execute the enforcement mechanism in Idaho Code section 72-434 without first obtaining an order from the Commission." If the Commission lacks jurisdiction over an employer's filing, it would be impossible for an employer or surety to comply with this requirement until the worker filed a complaint. Without such jurisdiction, an employer or surety could not exercise the rights provided in statutes such as I.C. § 72-434.

- iii. *Supreme Court cases analyzing whether a case arises under the worker's compensation act rely on the substance of the cause of action, not who filed the complaint.*

26. Third, when interpreting the Idaho Industrial Commission's jurisdiction under I.C. § 72-707, the Idaho Supreme Court has analyzed whether the dispute regards a question "arising under this law," not whether the worker or employer filed the complaint. The Commission's jurisdiction depends on whether the action itself involves the responsibilities entrusted to the Commission and the rights provided to workers in Title 72.

27. In *Selkirk Seed Co. v. State Ins. Fund*, 135 Idaho 649, 649-651, 22 P.3d 1028, 1029-1030 (2000), the Idaho Supreme Court held that the Commission lacked jurisdiction to hear tort and breach of contract actions between a surety and the Idaho State Insurance Fund. In so holding, the Court cited that "allegations of separate torts, 'wholly distinct' from Idaho's worker's compensation statutory scheme, may give rise to jurisdiction of Idaho state courts outside the exclusive jurisdiction of the Idaho Industrial Commission." *Id.* at 1030. While a prior case, *Van*

Tine, had cited the Commission's broad jurisdiction of "[a]ll questions arising under," "subsequent cases have narrowed the determination to whether a district court has jurisdiction over a complaint filed by a worker's compensation claimant against an employer or an employer's surety." *Id.* Although *Selkirk*'s language references the complaint being filed by a worker, reading it to exclude complaints filed by an employer is inconsistent with the context. The pin of the Court's reasoning focused on the allegation of torts and actions "wholly distinct" from worker's compensation. Barring an employer from filing a complaint based on the language in *Selkirk* would also conflict with later cases.

28. In the case of *Owsley v. Idaho Indus. Comm'n*, 141 Idaho 129, 106 P.3d 455 (2005), the Idaho Supreme Court held that despite the exclusive jurisdiction over worker's compensation granted to the Idaho Industrial Commission, the district court had jurisdiction over bias, prejudgment, and due process allegations filed by workers against the Commission after it denied a proposed settlement. *Id.* at 456, 459-60. In its reasoning, the Court cited that I.C. § 72-707 gave the Commission jurisdiction over all questions "arising under" worker's compensation. It then quoted *Selkirk*: "Idaho case law [...] has clarified that the Commissions' actual mandate is more narrowly restricted to adjudicating certain 'complaint[s] filed by a *worker's compensation claimant* against an employer or an employer's surety.'" *Id.* at 460 (emphasis original). The Court applied *Selkirk* by reasoning that "the present action is not an action between workers and employers." *Id.*

[I]n addition to naming the ISIF, the Claimants have brought suit against the Industrial Commission itself. An action by a worker against any entity besides a surety or an employer does not generally fall within the purview of the Commission.

Id. Moreover, the Court cited that the courts are "the proper forum' for the determination of constitutional questions." *Id.* As in *Selkirk*, the focus of the Court's analysis was not whether a

worker filed a complaint. The outcome was controlled by the substance of the cause of action.

29. In the case of *Williams v. Blue Cross Idaho*, 151 Idaho 515, 260 P.3d 1186 (2011), the Idaho Supreme Court held the Commission had jurisdiction to hear the petition for declaratory ruling filed by a worker against his private insurance company as it asserted a subrogation interest against his worker's compensation settlement proceeds. *Id.* at 518, 1189. The Supreme Court cited *Owsley* for the rule given in *Selkirk*, then held that:

We conclude that the Commission had jurisdiction to consider whether Blue Cross is a subrogee, rather than a creditor, under I.C. § 72-802, and that the Commission also had jurisdiction to determine the extent of Blue Cross' entitlement to the settlement proceeds.

Id. at 518, 1190. In its reasoning, the Court cited that the Commission had the statutory obligation to approve settlements under I.C. § 72-404². *Id.* at 519, 1190. Additionally, claims for medical services were subject to approval by the Commission per I.C. § 72-803. The Commission promulgated medical fee rules, and had legislative authority to resolve disputes between payors and medical providers. *Id.* The Court concluded that:

Although the case at hand concerns the subrogation of a third-party insurer rather than the SIF, both instances require clarification of a worker's rights arising under workers' compensation law. According to the statutory mandates in I.C. §§ 72-707, -803, and -404 mentioned above, the Commission is the proper tribunal to clarify such rights.

Id.

30. Under the reasoning and outcome in these cases, the controlling question regarding the Commission's jurisdiction is not whether the subject is a "complaint" filed "by a worker" against an employer or its surety, but whether the action itself arises under Title 72.

31. *Selkirk* and *Owsley* rejected the jurisdiction of the Industrial Commission and held the case should proceed in district court. Each involved distinct causes of action such as torts,

² This statute was later amended. Most settlement agreements no longer require Commission approval.

breach of contract, and due process. Such issues have always belonged in the district courts, and do not depend on rights created in the worker's compensation act. In contrast, *Williams* upheld the Commission's jurisdiction by relying on the Commission's responsibilities given in Idaho statute. It did so despite the fact the initiating pleading was not a worker's complaint filed against an employer or an employer's surety. If the Commission's jurisdiction depended on a finding that a worker filed a complaint against an employer, the Court would have held so in *Williams*. The action was neither a complaint nor filed against an employer or its surety. Rather, consistent with *Selkirk* and *Owsley*, *Williams* analyzed jurisdiction based on whether the substance of the cause of action related to worker's compensation law.

32. Focusing on whether the dispute involves a question "arising under this law" also explains the Supreme Court's holding that the Commission properly considered the complaint filed by an employer to determine an employment relationship, despite the worker's objection and desire to litigate the question in district court. *Basin Land, supra*. It accords with the Supreme Court's holding that "the question of which of the two sureties is responsible for claimant's injury is a 'question arising under this law' as provided in I.C. § 72-707 and is a proper case to be determined by the Industrial Commission." *Brooks, supra* at 1069, 1241. Finally, it explains the holding of the Idaho Supreme Court that constitutional questions are outside the jurisdiction of the Idaho Industrial Commission. *See Idaho State Ins. Fund v. Van Tine*, 132 Idaho 902, 908, 980 P.2d 566, 572 (1999) (Van Tine II).

33. Therefore, the Commission's jurisdiction is determined by whether the case involves the application of the worker's compensation act, the entitlement and benefits it provides, and the responsibilities given to the Commission. It is not determined by whether the worker filed the complaint.

34. In sum, Idaho Supreme Court precedent supports a finding that the Commission has jurisdiction to hear an employer's complaint under I.C. § 72-707.

C. Jurisdiction To Receive An Employer's or Surety's Complaint Is Consistent With JRP1(A) and Prior IIC Decisions.

35. A finding that I.C. § 72-707 grants the Commission jurisdiction to receive a complaint from an employer or surety is consistent with the plain language of the JRP rules and Idaho Industrial Commission precedent.

36. JRP 1(A) provides that “[a]ny party to a controversy may apply to the Commission for relief, and the Commission shall make such order, ruling or award as it determines is reasonable and just.” A surety or employer is undoubtedly a party to a worker's compensation case and consequently may file a complaint. Consistent with this rule, JRP 4, which directs manner of filing and service, makes references to statements such as “[t]he party making the complaint shall file” and “[e]ach party served with a copy of the complaint must file an answer to said complaint within 21 days from the date of the service of the complaint.” JRP 4 (B)(1), (C)(1). Nothing prevents an employer or surety from filing.

37. In the case of *Hutchins v. Finke Logging*, 012519 IDWC, IC 2015-012656 (Idaho Indus. Comm'n, 2019), the Idaho Industrial Commission held that jurisdiction permitted an employer to seek determination of disability by filing a complaint, although that complaint was subsequently dismissed on a separate justiciability issue. In so holding, the Commission stated that:

While the Commission's procedures obviously contemplate the usual case of the injured worker as claimant, the Commission has jurisdiction to entertain a complaint from any party who has a dispute over which the Industrial Commission may exercise jurisdiction.

Id. The Commission made a similar holding in *Idaho Department of Environmental Quality v. Jewell*, 043012 IDWC, IC 2002-525645 (Idaho Indus. Comm'n, 2012). In that case, the employer

and surety were directed to file a complaint to resolve the question of total and permanent disability. The Commission reasoned that the issue was not appropriate for a declaratory ruling, but should be resolved by the standard adjudicatory process.

38. Applying these rules and precedent, an employer or surety may file a complaint. Petitioner has argued that these cases and the JRP rules exceed the Commission's statutory authority. As discussed above however, receiving a complaint filed by an employer is within the grant of authority given by I.C. § 72-707.

D. The Policy of the Idaho Worker's Compensation Act Supports Permitting An Employer to File a Complaint

39. Petitioner has argued that the policy of the worker's compensation act prohibits an employer or surety from filing a complaint. It is unquestionable that the purpose of the Idaho Worker's Compensation Act is to provide sure and certain relief for injured workers, and to that end, the law is construed in a worker's favor. *See Fuentes v. Cavco Indus., Inc.*, 170 Idaho 432, 511 P.3d 852, 857 (2022), *Tenny v. Loomis Armored United States, LLC*, 168 Idaho 870, 489 P.3d 457 (2021). However, the Act itself is a "grand bargain" between the interests of both workers and their employers. *Smith v. Excel Fabrication, LLC*, 172 Idaho 725, 535 P.3d 1098, 1102 (2023). Barring an employer or surety from filing before the Commission would result in an unbalanced system, with negative consequences for employers, sureties, and workers.

40. Without the ability to file a complaint, a surety would have difficulty exercising its right to obtain medical records and evidence in the case of an uncooperative claimant who has not yet filed a complaint. Enforcement of rights given in statutes such as I.C. §§ 72-403, 433, and 434, which require a Commission order before a surety suspends payments, would be similarly problematic. Sureties must pay stiff penalties for unreasonably denying benefits and must exercise all due diligence in investigating and deciding a claim. Preventing access to the Commission would

hamper this process. Sureties could not enforce the statutory mechanisms granted to them unless the worker had already filed a complaint.

41. Workers would be negatively impacted as sureties may inadvertently deny compensable claims due to an inability to obtain necessary information in a good faith investigation. It would also disadvantage unrepresented workers where an employer's filing is to a worker's benefit. For example, barring an employer or surety from filing on jurisdictional grounds would mean that a surety could not file a petition for declaratory ruling – technically against the worker – asking how to properly pay benefits in a death benefits case where the dependent is an unrepresented minor. *See Guadarrama v. Marsing Agric. Lab. Sponsoring Comm. Inc.*, IC 2023-015697 (Idaho Indus. Comm'n, February 15, 2024).

42. While Petitioner has only requested a decision on whether a surety may file a complaint against a worker, it is worth noting that without the ability to file a complaint in general, sureties and employers would also be unable to add the Industrial Special Indemnity Fund as a defendant in cases of total permanent disability.

43. Petitioner has argued that permitting a surety or employer to file a complaint is equivalent to permitting a lawsuit against a worker and violates the purpose of the Idaho Worker's Compensation Act. However, this argument ignores the negative consequences to workers listed above. There is some merit to Petitioner's concern that an employer's complaint would pressure a worker to proceed with a case before it is ready. However, while an employer may file a complaint, this is not equivalent to permitting an employer to bring any issue to hearing on the employer's schedule. Justiciability requirements include elements besides jurisdiction such as standing and ripeness. While Petitioner did not make those arguments in this case, such issues can be brought before the referee. The Idaho Supreme Court has also stated that the employer will bear the burden

of proof where it is the moving party. *See Basin Land Irr. Co. v. Hat Butte Canal Co.*, 114 Idaho 121, 754 P.2d 434 (1988). These options mitigate Petitioner's concerns.

44. In view of the statutory language in I.C. § 72-707, precedent from the Idaho Supreme Court, Idaho Industrial Commission caselaw, JRP rules, and negative consequences an alternate finding would have for the worker's compensation system, the Commission has jurisdiction to hear a complaint filed by an employer or surety against a worker.

III. I.C. § 72-707 Is The Correct Analysis Here.

45. Petitioner has argued that I.C. § 72-706 does not authorize an employer to file a complaint. Respondents have argued that I.C. § 72-707 does provide such jurisdiction, to which Petitioner states that Respondent may not rely upon any source of authority besides I.C. § 72-706. The Commission finds the statutory grant of jurisdiction in I.C. § 72-707 is properly considered here and is the correct analysis to determine whether jurisdiction over Respondent's complaint exists.

46. First, Petitioner's extensive argument that the statute of limitations in I.C. § 72-706 does not provide jurisdiction to hear an employer's complaint is a red herring. No one argues that I.C. § 72-706 is a jurisdictional grant of authority. Its plain language does not authorize anyone, even a worker, to file a complaint. At best, the statute implicitly acknowledges the authority to file complaints since it provides time limits. To an extent, Petitioner's argument implies that I.C. § 72-706 affirmatively restricts the jurisdiction given in I.C. § 72-707. However, I.C. § 72-706 is a statute of limitations. Per its plain language, it restricts based on timeliness and only timeliness. It does not purport to govern who may file a complaint.

47. Second, Petitioner's argument that I.C. § 72-706 is the relevant analysis is not well taken. While Petitioner has only asked for a ruling that I.C. § 72-706 does not grant jurisdiction over an employer's complaint, a declaratory ruling is only proper because of the controversy over

Respondent's complaint. Respondent has raised law relevant to that controversy, such as I.C. § 72-707 and JRP 1(A). "[D]eclaratory judgment actions run a particular risk of crossing the 'fine line between purely hypothetical or academic questions and actually justiciable cases.'" *Westover v. Idaho Counties Risk Mgmt. Program*, 164 Idaho 385, 390, 430 P.3d 1284, 1289 (2018). They will not be granted where a petitioner "would be unable to obtain further relief based on the judgment and no other relief is sought in the action." *Id.* Analyzing I.C. § 72-706 in isolation would leave the issue of jurisdiction unresolved and have no effect. Petitioner also does not have the right to prevent Respondent from raising other relevant law as an issue. Finally, jurisdiction may be considered sua sponte. Therefore, the Commission will analyze the entire case related to jurisdiction over Respondent's complaint.

48. Petitioner has argued that other laws and rules besides I.C. § 72-706 may not be considered on procedural grounds related to the complaint process. However, Respondent's complaint makes no mention of I.C. § 72-706 as its jurisdictional basis. Neither JRP3(A) nor JRP Appendix 1, the source of the form used by Respondent, make any reference to I.C. § 72-706 as a source of jurisdiction. JRP3(A) simply directs that the "application for hearing" referenced in I.C. § 72-706 must be on the JRP Appendix 1 form. The only party that has made any mention of I.C. § 72-706 as a basis for jurisdiction is Petitioner.

49. In contrast, I.C. § 72-707 is properly considered here. While Respondent's complaint does not give a statement of jurisdiction, there is no requirement that a worker's compensation complaint explicitly identify the grounds for jurisdiction. The complaint filed by Respondent is a standardized form found in JRP Appendix 1 which provides a straightforward way to comply with pleading requirements. This form is mandatory in most cases and utilized nearly universally, including by pro se workers. In all these cases, it is understood that the case is filed

under the Commission's jurisdiction to adjudicate worker's compensation proceedings, which is granted in I.C. § 72-707 and clarified by other statutes and precedent. There is no reason to treat Respondent's complaint differently. Requiring a statement of jurisdiction would do nothing to assist the adjudicative process.

50. Therefore, I.C. § 72-707 is the correct analysis for jurisdictional findings and is properly considered here.

IV. JRP3(A) And JRP Appendix 1 Do Not Prevent An Employer Or Surety From Filing A Complaint.

51. As an alternative argument, Petitioner has argued that the complaint form required per JRP3(A) and JRP Appendix 1 excludes employers' complaints or at least prohibits Respondent's particular complaint due to impermissible modification. The Commission does not find this argument persuasive.

52. First, the required form does not bar an employer's complaint. The form's purpose is to expedite proceedings and formalize a standard procedure, which assists in making case procedure "summary and simple" under I.C. § 72-708.

Since the inception of Idaho's Workers' Compensation Act, Industrial Commission proceedings have been informal and designed for simplicity; the primary purpose of these proceedings being the attainment of justice in each individual case.

Hagler v. Micron Technology, Inc., 118 Idaho 596, 599, 798 P.2d 55, 58 (1990). A form implements a process for administrative and practical purposes. It is not a substantive rule that expands or abrogates the responsibility entrusted to the Commission to decide worker's compensation disputes. *See* I.C. §§ 72-707, 712. To hold otherwise literally elevates form over substance.

53. Consistent with this purpose, JRP3(A) and JRP Appendix 1 do not explicitly or implicitly prohibit an employer's or surety's complaint. JRP3(A) states that:

For purposes of these rules, an “application for hearing,” as referenced in Idaho Code § 72-706, shall be called a complaint. The complaint shall be in the form prescribed by the Commission, an example of which is attached hereto as Appendix 1.

JRP Appendix 1 is, of course, the actual complaint form. Nothing in the rule or the form requires that the filing party be a worker. Only two parts of the form might arguably imply a worker is filing the complaint. The title and a notice at the end. The title of the form is “Workers’ Compensation Complaint.” This is merely a plural descriptive that identifies the complaint as a workers’ compensation case, not anything that requires the form to be filed by a worker. The notice at the end states that “[a]n Employer or Insurance Company served with a Complaint must file an Answer . . . within 21 days.” Again, this hardly requires a worker to file the complaint. An employer could accurately fill out the form without making any adjustments, even if the notice is no longer helpful. Regardless of any arguable implications, there is no need to resort to inferences or read between the lines to determine if JRP3(A) restricts who may file the complaint. The plain language of JRP 1(A) expressly permits any party to file.

54. Second, for the same reasons that the form does not bar an employer’s complaint, the form does not prohibit factually and legally appropriate modifications. Commission proceedings are “informal and designed for simplicity.” *Morris v. Hap Taylor & Sons, Inc.*, 154 Idaho 633, 301 P.3d 639 (2013) (holding that failure of settlement to include item required by Commission rule did not void the agreement). There is no instruction or guiding comment related to the form that prevents modifications. Nor is there any reason to interpret the form as a hyper technical restrictive pleading requirement. In fact, the form by its nature is not well suited to every possible scenario that can arise under worker’s compensation law. Certain situations will require significant deviations or independent non-form complaints, such as an employer versus ISIF claim. Provided a complaint substantially complies with the form, it is accepted.

55. In this case, Respondent filed a slightly modified version of the form which was entitled “Defendants’ Workers Compensation Complaint” and contained a notice that “[i]n this case, Defendants are filing the Complaint and Claimant should file and[sic] Answer.” These slight modifications served to clarify the parties’ positions in the case – as it is generally the worker who files – and the overall form substantially complied with rule requirements.

56. The Commission finds Respondent’s complaint complies with JRP rule requirements. Nothing done by Respondent is outside the usual scope of everyday cases before the Commission. Rejecting these modifications would require similar treatment in other cases, which would disadvantage employers, sureties, and injured workers alike.

V. Whether Petitioner Or Respondent Is Entitled To Sanctions Under JRP 16.

57. Both Respondent and Petitioner have requested sanctions against the opposing party. The issues have been decided in Respondent’s favor, who defended against the Petition and have relied in good faith upon existing law and precedent. Although Petitioner’s argument is not persuasive, and the choice of legal procedure is not optimal, the Petition does not rise to the level of abuse of procedure. Sanctions will not be issued.

CONCLUSIONS

1. The procedural requirements of JRP 15 have been met and it is proper to issue a declaratory judgment.

2. The Idaho Industrial Commission has jurisdiction to receive a complaint filed by an employer or surety under I.C. § 72-707. The relevant question is whether the dispute regards a question “arising under this law,” not whether the worker or employer filed the complaint.

3. The provisions of JRP 3(A), JRP 4, and JRP Appendix 1 do not prevent an Employer or Surety from filing a complaint.

4. Sanctions will not be issued against Petitioner or Respondent.

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

DATED this 7th day of March, 2024.

INDUSTRIAL COMMISSION



Attest:

Kamerron Slay
Commissioner Secretary

Thomas E. Limbaugh
Thomas E. Limbaugh, Chairman

Claire Sharp
Claire Sharp, Commissioner

Aaron White
Aaron White, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that on 8th day of March, 2024 a true and correct copy of the foregoing **ORDER DENYING JANUARY 4, 2024 PETITION FOR DECLARATORY RULING** was served by email upon each of the following:

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