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**UTAH LABOR COMMISSION**

**T. KAY FARLEY,**

**Petitioner,**

vs.

**R C WILLEY HOME FURNISHINGS and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

**Case No. 04-0747**

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T. Kay Farley asks the Utah Labor Commission to reconsider its prior decision denying Ms. Farley's claim for permanent total disability compensation under § 34A-2-413 of the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this matter pursuant to § 63G-4-302 of the Utah Administrative Procedures Act.

**BACKGROUND AND ISSUES PRESENTED**

Ms. Farley claimed workers' compensation benefits, including medical benefits and permanent total disability compensation, for a knee injury suffered while working for R C Willey on December 17, 2001. After an evidentiary hearing, Judge Marlowe determined that Ms. Farley was gainfully employed and, therefore, not entitled to permanent total disability compensation. Judge Marlowe also summarily dismissed Ms. Farley's claim for medical benefits because Ms. Farley had not presented any evidence to support that claim.

Ms. Farley then asked the Labor Commission to review Judge Marlowe's decision, but **only** on the issue of Ms. Farley's entitlement to permanent total disability compensation. Ms. Farley did not request review of Judge Marlowe's dismissal of her claim for medical benefits. The Commission issued its decision affirming Judge Marlowe's denial of permanent total disability compensation. Ms. Farley now requests the Commission to reconsider its decision. However, Ms. Farley's request for reconsideration asks the Commission to address Judge Marlowe's denial of medical benefits—a different issue than Ms. Farley raised in her original motion for review.

**DISCUSSION**

Section 63G-4-301(1) (b) (ii) of the Utah Administrative Procedures Act requires a party seeking Commission review of an ALJ's decision to "state the grounds for review and the relief requested." The Labor Commission is precluded from addressing issues that the parties have not raised in their motions for review. *Hilton Hotel et al. v. Industrial Commission, et al.*, 897 P.2d 352

(Utah App. 1995.) As previously noted, the only issue that Ms. Farley raised in her original motion for review was her entitlement to permanent total disability compensation. She did not challenge Judge Marlowe's dismissal of her claim for medical benefits. Consequently, Judge Marlowe's decision regarding medical benefits is final and is not now subject to reconsideration by the Commission.<sup>1</sup>

While the Commission is unable to address Ms. Farley's claim to medical benefits in this reconsideration proceeding, the Commission advises Ms. Farley that § 34A-2-420(1) (a) of the Utah Workers' Compensation Act grants the Labor Commission continuing jurisdiction over each workers' compensation case, and permits the Commission to "from time to time modify or change a former finding or order of the commission" if circumstances change. If in the future Ms. Farley believes that her circumstances have changed so as to justify an award of additional benefits, including medical benefits, she may file a new application for such benefits.

### **ORDER**

The Commission reaffirms its previous decision in this matter and denies Ms. Farley's request for reconsideration.

Dated this 28<sup>th</sup> day of May, 2009.

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Sherrie Hayashi  
Utah Labor Commissioner

### **NOTICE OF APPEAL RIGHTS**

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.

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<sup>1</sup> The Commission notes the representation by WCF, R C. Willey's insurance carrier, that all medical bills have been paid in this matter, and that WCF will continue to pay the reasonable cost of medical care necessary to treat Ms. Farley's work injuries.