R. S. S-H. asks the Utah Labor Commission to reconsider its prior decision denying Ms. S-H.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Annotated §63-46b-13.

BACKGROUND AND ISSUES PRESENTED

Ms. S-H. alleges she was injured while working for Airport Hilton Inn on March 5, 2002. She did not file an application for workers' compensation benefits until nearly three years later, during February 2005. At the time of filing, she was represented by an attorney. That attorney withdrew from the case on March 4, 2005.

Judge Hann originally scheduled an evidentiary hearing for July 11, 2004, but at the request of both Ms. S-H. and Airport Hilton/Kemper Insurance, the hearing was postponed until September 29, 2004. Ms. S-H. participated in the hearing and was assisted by a translator of her choosing. On October 4, 2005, Judge Hann denied Ms. S-H.'s claim because her work at Airport Hilton Inn did not medically cause of her alleged injuries.

Ms. S-H. then filed with the Commission a motion for review of Judge Hann's decision. In the motion for review, Ms. S-H. stated that she disagreed with the decision, but did not identify any particular mistake of fact or law, or request a new hearing so that she could obtain counsel. The Commission denied Ms. S-H.'s motion for review on January 5, 2006.

The Commission has now received Ms. S-H.'s request for reconsideration. Ms. S-H. states that, because of her inability to speak english and her lack of an attorney, she did not understand what was required of her in the previous proceedings. In effect, she asks that her claim be re-adjudicated so that she can be represented by an attorney.

DISCUSSION

The Commission notes Ms. S-H. was originally represented by an attorney, who withdrew. Ms. S-H. then proceeded through the Commission's entire adjudication process without replacing her attorney. It was only after Judge Hann denied her claim, and the Commission ratified that denial, the Ms. S-H. raised the issue of her need for an attorney.

The Commission cannot address issues that are raised for the first time in a request for reconsideration. Even if the Commission could consider this new issue on its merits, the Commission would conclude that Ms. S-H. had a reasonable opportunity to obtain counsel. To allow her to start over at this point would subvert the orderly adjudication process that is established by Utah law.

ORDER

The Commission denies Ms. S-H.'s request for reconsideration and reaffirms the Commission's previous decision in this matter. It is so ordered.

Dated this 28th day of February, 2006.

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R. Lee Ellertson
Utah Labor Commissioner