



Board finds that the Administrative Law Judge has the discretion to reconsider a preliminary hearing issue under these circumstances where claimant has previously been given an opportunity to testify and present medical evidence. At the initial preliminary hearing, claimant did not request the Administrative Law Judge to hold the record open to afford him an opportunity to obtain and introduce the most recent medical evidence.

Claimant argues that he is now denied due process and equal protection because the Administrative Law Judge has refused to reconsider the earlier denial of benefits. The Appeals Board disagrees. Claimant was afforded a preliminary hearing as contemplated by K.S.A. 44-534a. And, the Appeals Board finds the medical evidence claimant wishes the Administrative Law Judge to now consider was available at the time of the initial hearing, although it had not been requested. The administrative law judges have latitude and discretion in controlling their dockets and the efficient administration of their assigned cases. The Administrative Law Judge's exercising of his discretion in this matter was not arbitrary nor capricious.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on July 10, 1995, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: Stephen J. Jones, Wichita, Kansas
- Jeffrey E. King, Salina, Kansas
- George R. Robertson, Administrative Law Judge
- Philip S. Harness, Director