

January 8, 2025

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**LETTER DECISION ON MOTION TO
DISMISS PETITION**

Garrett J. Keegan
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RE: HF No. 98, 2023/24– RTI International and CorVel Corporation v. Tamara Lile

Greetings:

This letter will address Claimant's Motion to Dismiss Petition. Employer and Insurer's response has also been considered.

Claimant moves to dismiss this petition on the grounds that there is no disagreement or controversy to meet the requirements of SDCL § 62-7-12 which provides,

If the employer and injured employee or the employee's representative or dependents fail to reach an agreement in regard to compensation under this title, either party may notify the Department of Labor and Regulation and request a hearing according to rules promulgated pursuant to chapter 1-26 by the secretary of labor and regulation. The department shall fix a time and place for the hearing and shall notify the parties.

Claimant asserts the contents of the Petition are moot and the matter is not ripe for review.

Employer and Insurer assert that while Claimant was injured on or about July 18, 2021, she has reached maximum medical improvement and returned to work. They allege that she is therefore no longer entitled to Workers' Compensation benefits. Additionally, the Petition raises the issue of Claimant's refusal to attend an independent medical examination (IME).

The Department concludes that a controversy does exist regarding change of condition under SDCL § 62-7-33 as well as the issue of attendance of the IME. The Petition was properly filed pursuant to ARSD 47:03:01 and SDCL § 62-7-12. Claimant's Motion to Dismiss is DENIED.

Sincerely,

A handwritten signature in blue ink that reads "Michelle Faw". The signature is written in a cursive, flowing style.

Michelle M. Faw

Administrative Law Judge