

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H109975

CHRISTINA N. WILSON

CLAIMANT

BAXTER HEALTHCARE CORP., Employer

RESPONDENT

**LIBERTY MUTUAL / HELMANS
MANAGEMENT SERVICES, CARRIER/TPA**

RESPONDENT

OPINION FILED MARCH 21, 2023

Hearing before Administrative Law Judge James D. Kennedy on March 15, 2023, in Mountain Home, Baxter County, Arkansas.

Claimant is *pro se* and failed to appear.

Respondents are represented by their attorney, Mr. Garrett O'Brien, of Memphis, Tennessee.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on March 15, 2023, in Mountain Home, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant filed a Form AR-C on December 21, 2021, claiming that she injured her right knee in a work-related accident and that she was scheduled to have her knee repaired by a procedure performed by Dr. O'Malley in Little Rock, Arkansas, on December 30, 2022. The respondent, Baxter Healthcare Corporation, filed a First Report of Injury on January 4, 2021, and a Form AR-2 on January 5, 2022, where they did not controvert the claim. The claimant reached maximum medical improvement on March 24, 2021, and received medical benefits provided by Dr. O'Malley, although no change of physician form was filed by the claimant and Dr. O'Malley was not the original treating physician. The claimant only sought medical care and payment of any outstanding

medical expenses. A Motion to Dismiss for Failure to Prosecute was filed by the respondents on or about December 21, 2022.

An appropriate notice setting this matter for a hearing on March 15, 2023, was provided, and the claimant did not file an objection or appear at the hearing in Mountain Home, Arkansas. At the time of the hearing, Garrett O'Brien appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondent, this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE