

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC CLAIM NO.: H304411

SHANNON DODSON,
EMPLOYEE

CLAIMANT

NEW AGE DISTRUBUTING, INC.,
EMPLOYER

RESPONDENT

RETAILERS CASUALTY INSURANCE,
CARRIER/TPA

RESPONDENT

OPINION FILED JUNE 19, 2025

Hearing held before Administrative Law Judge CHANDRA L. BLACK, in Little Rock, Pulaski County, Arkansas.

The Claimant, pro se, failed to appear at the hearing.

Respondents represented by the Honorable Zachary F. Ryburn, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on June 18, 2025, in the present case to determine whether this claim for additional Arkansas workers' compensation should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and/or Arkansas Workers' Compensation Commission Rule 099.13. The dismissal hearing in this claim was held pursuant to the ruling in Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004).

Appropriate notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

No testimony was taken.

The record consists of June 18, 2025, hearing transcript and the documents held therein. Commission's Exhibit consists of fourteen (14) pages of pleadings, letters, forms, and other tracking documents which were provided to the Commission by the United States Postal Service concerning delivery information for notices sent to the Claimant; and Respondents' Exhibit 1 consists of five (5) pages.

Procedural History

On August 1, 2023, the Claimant's attorney filed with the Commission a claim for Arkansas workers' compensation benefits via a Form AR-C. Per this document, the Claimant alleged that she sustained injuries during the course and in the scope of her employment with the respondent-employer. According to this document, the Claimant asserted that she sustained an injury to her wrist in a work-related accident on July 3, 2023. The Claimant's attorney requested only additional benefits. In fact, her attorney checked all the boxes for every possible additional workers' compensation benefit allowed under the law.

On July 13, 2023, the respondent-insurance-carrier filed with the Commission a Form AR-2 stating their position on this claim for workers' compensation benefits. Per this form, the Respondents accepted the claim as compensable. Specifically, the carrier stated in a letter to the Commission dated August 3, 2023, that they were paying all reasonable, necessary, related, and authorized medical and indemnity benefits.

The Claimant requested a change of physician from Sean Michael Morell, M.D. to Mar Tait, DO. On August 24, 2023, the Commission's Medical Cost Containment Director entered a change of physician order granting the Claimant's request for a change of physician.

Subsequently, there was no activity whatsoever on the claim. However, on February 9, 2024, the Claimant's attorney sent an email to the Commission, which was accompanied by a Motion to Withdraw from representing the Claimant in this matter.

On February 26, 2024, the Full Commission entered an order granting the motion for the Claimant's attorney to withdraw as counsel of record.

Since this time, the Claimant has not tried to pursue or otherwise resolve her claim, nor has she made a bona fide request for a hearing since the filing of the Form AR-C in August 2023.

Therefore, on April 22, 2025, the Respondents filed a Respondents' Motion to Dismiss, with the Commission, along with a certificate of service confirming that they had emailed a copy of the motion to the Claimant.

On April 24, 2025, my office sent a letter/notice to the Claimant informing her of the Respondents' motion, and a deadline of twenty (20) days, for filing a written response. Said letter was sent to the Claimant via both first-class and certified mail. Per tracking information received from the United States Postal Service, on April 26, 2025, they delivered this item to the Claimant's residence and left it with an individual. However, the signature of the recipient signing for delivery of this item is illegible. Yet, the letter sent via first-class mail has not been returned to the Commission.

Subsequently, there was no response whatsoever from the Claimant.

Therefore, my office sent a Hearing Notice to the parties on May 16, 2025, letting them know that this matter had been set for a hearing on the Respondents' motion for dismissal of this claim due to a lack of prosecution. Said dismissal hearing was scheduled for Wednesday, June 18, 2025, at the Arkansas Workers' Compensation Commission.

This notice of hearing was mailed to the Claimant by both first-class and certified mail. Per tracking information received from the United States Postal Service, on May 21, 2025, they delivered this item to the Claimant's residence and left it with an individual. Yet again the signature of the recipient signing for delivery of this item is illegible. Thus far, the notice of hearing sent via first-class mail has not been returned to the Commission. Under these circumstances, I find that the Claimant received proper notice of the hearing.

Still, there was no response whatsoever from the Claimant.

Nevertheless, the hearing was held as scheduled. The Claimant did not appear at the hearing. However, the Respondents' counsel appeared at the hearing and argued that the Claimant has failed to prosecute her claim for workers' compensation benefits. More specifically, the Respondents' attorney noted that the Claimant has not taken any action to advance her claim since the filing of the Form AR-C in August 2023, which was clearly done more than six (6) months ago.

Therefore, the Respondents' attorney moved that this claim be dismissed pursuant to Ark. Code Ann. §11-9-702, and/or Commission Rule 099.13 *without prejudice*.

Adjudication

The statutory provision and Arkansas Workers' Compensation Rule applicable in the Respondents' request for dismissal of this claim are outlined below:

Specifically, Ark. Code Ann. §11-9-702(d) provides:

If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Additionally, Commission Rule 099.13 reads:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution. (Effective March 1, 1982)

A thorough review of the evidence before me shows that the Claimant has had ample time to pursue her claim for additional benefits, but she has failed to do so. Specifically, the Claimant has not requested a hearing or otherwise made any effort to prosecute her claim for workers' compensation benefits since the filing of the Form AR-C in August 2023, which was done over more than six (6) months ago. Of significance, the Claimant has failed to oppose the motion, and she has not responded to the notices of this Commission.

Here, the evidence preponderates that the Claimant has failed to timely prosecute this claim for additional workers' compensation benefits. Under these circumstances, I am convinced that the Claimant has abandoned her claim for workers' compensation benefits. Accordingly, based on the preponderance of the evidence presented before me, I find that the Respondents' motion to dismiss for a lack of prosecution to be well taken. I thus find that pursuant to the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and Commission Rule 099.13, this claim for additional workers' compensation benefits is hereby dismissed, *without prejudice*, to the refiling within the limitation period specified under the law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held.
3. Appropriate Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
4. The Respondents' motion to dismiss this claim for want of prosecution is hereby granted, *without prejudice*, pursuant to the provisions of Ark. Code Ann. §11-9-702, and Commission Rule 099.13, to the refiling of the claim within the specified limitation period.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for additional Arkansas workers' compensation benefits. This dismissal is pursuant to Ark. Code Ann. §11-9-702, and Commission Rule 099.13, *without prejudice*, to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

Chandra L. Black
Administrative Law Judge