

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H303793**

**SHATARICA FRAZIER,  
EMPLOYEE**

**CLAIMANT**

**ODYSSEY HEALTHCARE OPERATING LP,  
EMPLOYER**

**RESPONDENT**

**FARMINGTON CASUALTY CO., INC./  
THE TRAVELERS' INDEMNITY CO., INC.  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION TO DISMISS WITHOUT PREJUDICE  
FILED JUNE 18, 2024**

Hearing conducted on Friday, June 14, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant, Ms. Shatarica Frazier, pro se, of Texarkana, Miller County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on Friday, June 14, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

The respondents filed a letter motion to dismiss without prejudice (MTD) with the Commission on January 2, 2024, requesting this claim be dismissed without prejudice for lack of prosecution. The Rainwater, Holt & Sexton law firm (the Rainwater Firm) initially represented the claimant in this matter. By order filed March 5, 2024, the Commission granted the Rainwater Firm's request to withdraw as the claimant's attorney of record. Thereafter, via a letter to the

Commission filed March 14, 2024, the respondents renewed their dismissal request. Consistent with the applicable Arkansas law, the Commission mailed a copy of both the respondents' MTD and the subject hearing notice to the claimant at her last known address of record via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested, which the claimant received on March 21, 2024. (Commission Exhibit 1). Thereafter, the claimant failed and/or refused to respond in any way to either the Commission or to the respondents; and she failed and/or refused to appear at the subject hearing. The claimant never objected in any way to the respondents' MTD.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

### **DISCUSSION**

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has both failed and/or refused to prosecute her claim, and she has failed and/or refused to request a hearing within the last six (6) months on her claim.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this claim.
2. After the Commission mailed due and legal notice of the respondents' MTD

to the claimant she failed and/or refused to respond to the motion in any way; failed and/or refused to object to the subject MTD; and failed and/or refused to request a hearing on the merits of her claim.

3. The claimant failed and/or refused to appear at the subject hearing and, therefore, has waived her right to a hearing on the respondents' MTD.
4. The claimant has failed to request a hearing either on the merits, or on any issue related to her claim within the last six (6) months.
5. The respondents' letter MTD without prejudice initially filed with the Commission on January 2, 2024, and then renewed via a letter filed with the Commission March 14, 2024, should be and hereby is GRANTED.
6. Therefore, this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion shall not be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling this claim *if* the claim is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp