BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H504894

DEBORAH ASPLAND,
EMPLOYEE **CLAIMANT**

CMH HOMES, INC.,
SELF-INSURED EMPLOYER **RESPONDENT**

XL INSURANCE AMERICA,
CARRIER **RESPONDENT**

BROADSPIRE SERVICES, INC.,
TPA **RESPONDENT**

OPINION FILED AUGUST 11, 2026

Hearing conducted on Tuesday, July 14, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant was *Pro Se*.

The Respondents were represented by Mr. Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on May 11, 2026. A hearing on the motion was conducted on July 14, 2026, in Little Rock, Arkansas. Claimant did not attend the hearing.

The Claimant worked for the Respondent/Employer as an administrator. The date for Claimant's alleged injury was on July 28, 2025. The Respondents did not submit any evidence to the Commission. Admitted into evidence was Respondents' Ex. 1, pleadings and correspondence, consisting of 13 pages, Commission Ex. 1, pleadings, return receipts, and correspondence, consisting of 13 pages, *as discussed infra*.

The record reflects on August 6, 2025, a Form AR-C was filed by Claimant purporting that Claimant was walking up a ramp when her back pant leg got caught on a screw resulting in right knee pain. On September 3, 2025, an amended Form AR-C was filed by Claimant demanding other benefits including mileage. On August 21, 2025, a Form AR-2 was filed disputing compensability. Claimant's then-attorney filed a Motion to Withdraw as Counsel, on October 20, 2025, and the motion was granted on May 8, 2026.

Respondents filed a motion to dismiss on May 11, 2026, for failure to prosecute her claim. The Claimant was sent, on May 12, 2026, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to her last known address. The certified motion notice was not claimed by Claimant, per return receipt. This notice was also sent regular U.S. Mail and did not return to the Commission. The Claimant did not respond to the notice in writing. Thus, in accordance with applicable Arkansas law, the Claimant was sent notice of Respondents' Motion to Dismiss hearing date on June 8, 2026. The Claimant did claim the certified hearing notice. The hearing notice sent regular First-Class Mail did not return to the Commission. The hearing took place on July 14, 2026.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the July 14, 2026, hearing.

3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute her claim under 11 C.A.R. §25-110(d) (formerly AWCC Rule 099.13).

4. The Respondents' Motion to Dismiss should be granted.

5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 C.A.R. §25-110(d) provides:

> 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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 C.A.R. §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. Claimant did claim the certified hearing date notice. The hearing date notice sent regular First-Class mail likewise did not return to the Commission. These notices were sent to Claimant's last known address on record. This is reasonable. Thus, I find by the preponderance of the evidence that the Claimant did receive reasonable notice of this motion to dismiss hearing date.

Furthermore, 11 C.A.R. §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. Claimant has failed to request a bona fide hearing since the filing of her Form AR-C. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her claim. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

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STEVEN PORCH
Administrative Law Judge