

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H204851

JANET FOSTER, Employee	CLAIMANT
GOODWILL INDUSTRIES OF ARK., INC. Employer	RESPONDENT
RISK MANAGEMENT RESOURCES, Carrier	RESPONDENT

OPINION FILED OCTOBER 27, 2025

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Fort Smith, Sebastian County, Arkansas.

Claimant unrepresented and appearing *pro se*.

Respondents represented by MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondent's Motion to Dismiss.

Claimant suffered an admittedly compensable hernia on June 6, 2022. A hearing was conducted on claimant's claim on April 22, 2024, and an Opinion was filed on May 15, 2024, finding that claimant was entitled to additional medical treatment from Dr. Shamim; that claimant was entitled a weight loss program at Metabolic Research Center; and that claimant was entitled to temporary total disability benefits from December 19, 2022, through January 6, 2023. That Opinion was appealed by respondent and was affirmed and adopted by the Full Commission in an Opinion filed January 27, 2025.

Subsequently, Attorney Walker filed a Motion to Withdraw as Counsel and that motion was granted by an Order filed June 2, 2025. Thereafter, on July 9, 2025, respondent filed a motion to dismiss the claim for failure to prosecute. A hearing on respondent's motion was scheduled for October 6, 2025.

Claimant appeared at the hearing and testified that since the last hearing she had been participating in the awarded weight loss program; however, at some point she had to go to Texas to take care of a family member. She took a supply of the metabolic supplement with her but had to stay longer than she anticipated, and her supply ran out. As a result, she was not able to continue with the program. During this time period respondent suspended payment because it was unaware as to why claimant was not continuing in the program.

Claimant has returned and would like to continue with her weight loss program and Attorney Wood represented that respondent was willing to continue paying for that program.

With respect to any outstanding issues, claimant testified that she was not sure if there were other issues that needed to be addressed, and she would like to discuss any potential issues with legal counsel. Claimant testified that she has attempted to find an attorney to represent her but has been unable to do so.

Pursuant to 11 CAR §25-110(d), upon meritorious application to the Commission from a party 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.

Based upon claimant's testimony that she is unsure as to whether there are any additional issues to litigate and her testimony that she is in the process of attempting to find legal counsel, I find that claimant is not failing to prosecute her claim. Therefore, I find that respondent's motion to dismiss this claim should be and hereby is denied.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE