BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H506621

VERONICA R. GAMBLE, EMPLOYEE **CLAIMANT**

PEOPLEREADY, INC.,
EMPLOYER **RESPONDENT**

AIU INS. CO.,
CARRIER **RESPONDENT**

OPINION FILED AUGUST 21, 2026

Hearing before Administrative Law Judge O. Milton Fine II on August 20, 2026, in Little Rock, Pulaski County, Arkansas.

Claimant *pro se*.

Respondents represented by Mr. Eric Newkirk, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on August 20, 2026, in Little Rock, Arkansas. Claimant appeared at the hearing and gave testimony. Admitted into evidence were Commission Exhibit 1 and Respondents' Exhibit 1, forms, pleadings, reports, and correspondence related to this claim, consisting of 11 and 15 pages, respectively.

The record reflects the following procedural history:

Per the First Report of Injury or Illness filed on October 15, 2025, Claimant purportedly suffered an injury to her toes at work on September 20, 2025, when she was struck by a metal door that a co-worker had opened. According to the Form AR-2

that was filed on October 16, 2025, Respondents accepted an injury to Claimant's left foot and were paying medical and temporary total disability benefits pursuant thereto.

On October 30, 2025, Claimant filed a Form AR-C. Therein, she alleged that she suffered an injury to her left foot as outlined above, and that she was seeking initial benefits in the forms of medical treatment and temporary partial disability benefits. The matter was assigned to a Legal Advisor to conduct a conference; but because Claimant did not file a questionnaire response with the Legal Advisor Division within the time allotted, her file was returned to the Commission's general files on December 8, 2025. After this took place, Claimant filed the response on December 17, 2025. She wrote on the questionnaire: "I don't want mediation nor hearing please close case it [is] under $2,500.00 on claim."[1] Claimant also informed a Legal Advisor that she did not wish to proceed because Respondents had begun paying benefits.

Nothing further took place on the claim until June 18, 2026. On that date, Respondents' counsel made his entry of appearance and filed the instant motion, asking for dismissal of the claim under AWCC R. 099.13 (now codified as 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702 (Repl. 2012) due to Claimant's alleged failure to request a hearing or take any other action on the claim since December 9, 2025. The file was assigned to me on June 19, 2026; and on June 22, 2026, my office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent

[1]On the witness stand, Claimant was shown this document. She denied that she intended by this wording to request a dismissal of the claim. To the contrary, Claimant stated that she meant to request a hearing thereon.

by certified and first-class mail to the Little Rock, Arkansas address of Claimant listed in the file and on her Form AR-C. The certified letter was returned to the Commission, unclaimed, on July 2, 2026; but the first-class mailing was not returned. However, no response from Claimant to the motion was forthcoming. On July 17, 2026, a hearing on the Motion to Dismiss was scheduled for August 20, 2026, at 12:30 p.m. at the Commission in Little Rock. The Notice of Hearing was sent to Claimant via first-class and certified mail to the same address as used previously. As before, the certified letter was returned to the Commission, unclaimed, on August 12, 2026; but the notice sent by first-class mail was not returned.

The hearing took place as scheduled. Both parties appeared, and Claimant testified. Respondents argued for dismissal under AWCC R. 099.13 (now codified at 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702 (Repl. 2012), contending, inter alia, that Claimant has done nothing to prosecute her claim in the past eight months.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.

3. Respondents have not proven by a preponderance of the evidence that Claimant has failed to prosecute her claim under 11 C.A.R. § 25-110(d).

4. Respondents have not proven by a preponderance of the evidence that this claim should be dismissed under Ark. Code Ann. § 11-9-702(d) (Repl. 2012).

5. The Motion to Dismiss is hereby denied.

6. Claimant has requested a hearing on the issue of her entitlement to benefits under this claim.

7. This claim will proceed to a hearing on the merits.

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

> 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).

In turn, Ark. Code Ann. § 11-9-702(d) (Repl. 2012) reads:

> 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 limitation periods specified in subsection (b) of this section.

(Emphasis added)

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp*., 212 Ark. 491, 206 S.W.2d 442 (1947).

A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id*. In so doing, the Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id*.

At the hearing, Claimant testified that she has been having issues with her mail. She desires to undergo additional treatment of her alleged injury. Claimant objected to a dismissal of her claim and stated that she wishes a hearing thereon, in the event that it is not dismissed.

After consideration of the evidence, I find that while both Claimant and Respondents were given reasonable notice of the motion to dismiss hearing under § 25-110(d), she has not yet abridged that rule. By the same token, I find that while § 11-9-702(d) provides that a claim "may" (clearly intending that the administrative law judge

has discretion in the matter) be dismissed for failure to request a hearing within six months of the filing of the claim, dismissal is not yet warranted here. The Motion to Dismiss is thus denied.

Prehearing questionnaires will be immediately issued to all parties; and this claim will proceed to a full hearing on the merits.

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, the Motion to Dismiss is, respectfully, denied.

IT IS SO ORDERED.

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O. MILTON FINE II
Chief Administrative Law Judge