

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H207016**

**RICK D. HAMPTON,  
EMPLOYEE**

**CLAIMANT**

**MILLER COUNTY JUDGE,  
EMPLOYER**

**RESPONDENT**

**ASS'N OF ARKANSAS COUNTIES WORKERS'  
COMPENSATION TRUST/  
AAC RISK MG'T SERVICES, INC.  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE  
FILED APRIL 21, 2023**

Hearing conducted on Friday, March 28, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant, Mr. Rick D. Hampton, pro se, of Fort Smith, Sebastian County, Arkansas, appeared in person at the hearing.

The respondents were represented by the Honorable Jason M. Ryburn, Ryburn Law Firm, Little Rock, Pulaski County, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on Friday, March 24, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Replacement) and Commission Rule 099.13 (2022 Lexis Repl.). The respondents filed a motion to dismiss with the Commission on February 1, 2023, requesting this claim be dismissed without prejudice for lack of prosecution.

In accordance with applicable Arkansas law, the claimant was mailed due and proper legal notice of both the respondents' motion to dismiss as well as a copy of the hearing notice at his current addresses of record via the United States Postal Service (USPS), First Class Certified Mail,

and he appeared in person, pro se, at the subject hearing. The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter by reference.

### **DISCUSSION**

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), 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' motion to dismiss. The claimant and the respondents' attorney took the opportunity to visit in person before the hearing. The parties agreed on the record that it appears the only two (2) outstanding issues to be resolved are the payment of some outstanding mileage expenses for medical visits/treatment.

Consequently, both the claimant and the respondents' attorney agreed that, once these outstanding issues are resolved, the claim may be dismissed pursuant to the parties' mutual agreement. The parties requested an additional 30 days, or until Tuesday, April 25, 2023, to resolve these issues. The parties will advise the ALJ on or before this date as to whether the issues have been resolved. If they have been resolved as expected, the ALJ will draft and enter an opinion order of dismissal without prejudice, without the necessity of the respondents' having to draft and file another motion, and without the necessity of the ALJ conducting another hearing on the respondents' MTD. If the issues have not been resolved, the parties may request additional time to resolve them, if needed, or may ask for any and all other appropriate Commission action or relief as may be appropriate.

The respondents advised this week they have paid all the outstanding medical mileage expenses with which the claimant was understandably concerned. Consequently, this resolves the

issue with which the claimant expressed concerned and identified as the only outstanding issue at the subject hearing as set forth above.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record – including but not limited to the parties’ mutual agreement as set forth in the opinion and order to hold the respondents’ motion to dismiss in abeyance for 30 days filed March 28, 2023, and consistent with the ALJ’s ruling as set forth the parties on the record at the hearing – I hereby make the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this claim.
2. The respondents have mailed a check to the claimant for the medical mileage expense reimbursement with which he was understandably concerned at the subject hearing; and the claimant has not identified any other issues that are ripe for a hearing, nor has he requested a hearing on any other issue(s).
3. Therefore, pursuant to the parties’ mutual agreement as expressed in the opinion and order to hold the respondents’ motion to dismiss in abeyance for 30 days filed March 28, 2023, I find the respondents’ subject motion to dismiss without prejudice filed with the Commission on February 1, 2023, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.
4. The respondents have advised both the claimant and the ALJ they have mailed the subject medical expense check to the address to which the claimant requested they mail it. The claimant shall advise the ALJ and the respondents via email when he receives the check. The Commission shall retain jurisdiction only to the extent required to enforce this order.

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

If they have not already done so, the respondents shall pay the court reporter's invoice within ten (10) days of the filing of this opinion and order.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp