

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO.: G907994**

BETTY J. HARDISTER, Employee	CLAIMANT
UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES, Self-Insured Employer	RESPONDENT
PUBLIC EMPLOYEE CLAIMS DIVISION, Carrier/TPA	RESPONDENT

**OPINION AND ORDER FILED JULY 20, 2022**

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Pulaski County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable CHARLES H. MCLEMORE; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on July 12, 2022, with respect to the Respondents' Second Motion to Dismiss filed with the Commission on May 9, 2022. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did she appear during the ensuing proceedings. (TR 3-4; 9)

Following sounding of the hall, the Commission's file in this matter was deemed incorporated by reference without objection, inclusive of the transcript of the prior proceedings held on October 6, 2021, in relation to the Respondents' First Motion to Dismiss. (TR 5)

The Commission's file reflects that notice of the Respondents' Motion filed on May 9, 2022, was sent to the Claimant via certified and first-class mail from the Commission dated May 10, 2022, to her last known address, which allowed her until May 31, 2022, to respond to such. There is no indication from the Commission's file that the Claimant responded to such Motion on or before the required date. The Commission's file also reflects that an Order was entered by the undersigned Administrative Law Judge on October 19, 2021, which denied the Respondents'

First Motion to Dismiss and allowed the Claimant sufficient time to either request a hearing on the merits of her claim or to obtain new counsel given the withdrawal of her previous counsel granted by way of a Full Commission Order entered on March 9, 2021. There is no indication from the Commission's file that the Claimant has taken any action in further prosecution of her claim since October 19, 2021.

The Commission's file reflects that notice of the hearing scheduled for July 12, 2022, was sent to the Claimant by the Commission via certified and first-class mail dated June 3, 2022, and that such was received at the Claimant's last known address on June 10, 2022, according to records provided to the Commission by the United States' Postal Service.

Given the Claimant's lack of objection to the Respondents' pending Motion, corresponding failure to appear at the hearing held on July 12, 2022, despite obvious receipt of notice of such, and her apparent failure to request a hearing on the merits of her claim since October 19, 2021, I specifically find that the Claimant has failed to prosecute her claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective July 12, 2022, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

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TERRY DON LUCY  
Administrative Law Judge