

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: H107534**

THERESA S. HAYWOOD, Employee	CLAIMANT
U.S. RENAL CARE, INC., Employer	RESPONDENT
ARCH INSURANCE COMPANY, Carrier	RESPONDENT
GALLAGHER BASSETT SERVICES, INC., TPA	RESPONDENT

OPINION AND ORDER FILED APRIL 13, 2022

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

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: HONORABLE CAROL L. WORLEY, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on March 25, 2022, upon the Respondents' Motion to Dismiss filed with the Commission on January 6, 2022. The *pro se* Claimant was advised of said Motion by the Commission by way of first-class and certified mail sent to her last known address and dated January 7, 2022, with a responsive pleading to such required on or before January 27, 2022. Information provided by the United States' Postal Service reflects that such notice was eventually returned as undeliverable. However, a Notice of Hearing dated January 28, 2022, was thereafter sent to the Claimant's last known address by way of certified and first-class mail from the Commission, and information provided by the United States' Postal Service reflects that such was received at the Claimant's last-known address on February 1, 2022. (See Commission File) The hearing was scheduled for February 25, 2022, but was subsequently continued given the likelihood of inclement weather in the designated location. (See Commission File and TR 7)

A second Notice of Hearing was sent to the Claimant's last known address by way of

certified and first-class from the Commission dated February 25, 2022. Once again, information provided by the United States' Postal Service reflects that such was received at the Claimant's last known address on February 28, 2022. (See Commission file and TR 7)

Counsel for the Respondents appeared for the hearing at the duly appointed time of 10:30 A.M. When the hall was sounded by Counsel for the Respondents at the appropriate time, the Claimant was not present nor did she appear during the ensuing proceedings. (TR 4)

During said proceedings, the Commission's file with respect to the above-captioned matter was deemed incorporated by reference into the record without objection. (TR 4) In addition, Respondents' documentary exhibit was accepted into evidence as Respondents' Exhibit No. 1 without objection. (TR 4-5)

It was noted on the record, and is also reflected in the Commission's file, that the Claimant filed a hearing request with the Commission on October 1, 2021. (See Commission File and TR 8) Counsel for the Respondents further noted on the record that the Claimant has not submitted a pre-hearing filing since that date and had informed Counsel for the Respondents via electronic communication dated November 11, 2021, that she refused to sign medical record release forms provided by the Respondents. (TR 8) Counsel for the Respondents also noted on the record that her office had received no further communication from the Claimant since November 11, 2021. (TR 9-10) These assertions by Counsel for the Respondents are regarded as uncontradicted given the Claimant's failure to appear at the hearing.

Consequently, based upon my review and consideration of the Commission's file, Respondents' Exhibit No. 1, statements made by Counsel for the Respondents during the hearing, the Claimant's failure to appear at the scheduled hearing, the Claimant's failure to co-operate with the Respondents during discovery, and the Claimant's apparent failure to take any action in

prosecution of her claim since at least November 11, 2021, I specifically find that the Claimant has failed to timely prosecute her claim within the meaning of Commission Rule 099.13 and that such should be dismissed without prejudice.

The above-captioned matter is respectfully dismissed without prejudice effective March 25, 2022, on which date the Respondents' Motion was granted from the bench. (TR 12) The above-captioned matter will be returned to the Commission's general files and no further action will be taken unless the Clerk of the Commission is advised, in writing, of an additional hearing request. The Respondents ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

Hon. Terry Don Lucy
ADMINISTRATIVE LAW JUDGE