

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H402853

CHERYL L. HUMPHREY, EMPLOYEE

CLAIMANT

HEALTHY CONNECTIONS, INC., EMPLOYER

RESPONDENT

**UNION INSURANCE OF PROVIDENCE/
EMPLOYERS MUTUAL CASUALTY CO., CARRIER/TPA**

RESPONDENT

OPINION FILED 6 MARCH 2025

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 5 March 2025 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Newkirk & Jones, Mr. David Jones, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 5 March 2025. This case relates to an alleged workplace injury sustained on or about 6 March 2024.

The claimant filed a Form AR-C on 30 April 2024, stating that she fell on a metal ramp. A First Report of Injury was filed on 6 May 2024, alleging unknown injuries to multiple body parts. The respondents subsequently filed a Form AR-2 denying the claim.

On 21 May 2024, the respondents served discovery on the claimant. [See Resp. Ex. No 1.] The claimant failed to respond to those requests. Subsequently, on 26 December 2024, the respondents filed the immediate motion seeking a dismissal of the claim for want of prosecution, citing ACA §§ 11-9-702(a)(4), (d) and Commission Rule 099.13. Therein, they argued that more than six months had passed without a bona fide request for a hearing on

an issue ripe for litigation. They also argued that the claimant did not respond to their discovery requests.

Notice of the respondents' motion was sent to the claimant, consistent with AWCC practices, via First Class Mail and Certified Mail, on 6 January 2025. After no response or objection was received by the Commission, a notice of a hearing on that motion was sent in the same fashion on 6 February 2025. When mailings are returned to the AWCC as not accepted or undeliverable, those mailings are appended to the claim's file. This file contains the return of only the certified letter from 6 January 2025.

The respondents appeared on 5 March 2025, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no bona fide request for a hearing on an issue ripe for litigation in this claim in the relevant time preceding the filing of their motion. The claimant did not appear to resist the dismissal of his claim. The respondents offered a number of documents into the record which, collectively, were admitted as Respondents' Exhibit No 1. The exhibit included twenty-five (25) pages of records. Contained therein are correspondence, forms, and filings related to the claim.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel; I find (1) that the parties were provided with reasonable notice of the respondents' Motion to Dismiss and the hearing, (2) that the respondents' Motion to Dismiss should be granted, and (3) that this matter should be dismissed without prejudice.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE