

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H404020**

**MARY L. JACKSON,
EMPLOYEE**

CLAIMANT

**DAVITA, INC.,
EMPLOYER**

RESPONDENT

**AIU INS. CO./
SEDGWICK CLAIMS MG'T SERVICES, INC.,
CARRIER/TPA**

RESPONDENT

**OPINION FILED JUNE 29 2026,
DENYING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE FILED
MARCH 18, 2026**

Hearing conducted on Friday, June 26, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Hot Springs, Garland County, Arkansas.

The claimant was represented by the Honorable James W. Stanley, Jr., James Stanley Law Firm, P.A., Little Rock, Pulaski County, Arkansas.

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

STATEMENT OF THE CASE

A hearing was conducted on June 26, 2026, to determine whether this claim should be dismissed without prejudice pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2025 Lexis Replacement) and 11 *CAR* Section 25-110(d) (2025 *Code of AR Regulations*), formerly cited as Commission Rule 099.13 (2025 Lexis Repl.)

On August 18, 2025, the claimant filed a Form AR-C alleging a work-related injury to her left lower extremity (a pulled hamstring). (Respondents' Exhibit 2 at 1; Reporter's Hearing

Transcript). The respondents accepted this injury as compensable and paid all appropriate medical and indemnity benefits. The claimant's treating physician opined she reached maximum medical improvement (MMI) and assigned her a three percent (3%) permanent anatomical impairment rating to her left lower extremity which the respondents accepted and have paid in full. By order dated June 19, 2025, the claimant requested, and the Full Commission granted, her one (1)-time-only change of physician (COP) request to Dr. Jeffrey Johnson. (Hearing Transcript).

Thereafter, it appears the claimant was not represented by counsel when she and the respondents agreed upon and filed a proposed joint petition settlement agreement. At the joint petition hearing the claimant decided she did not want to proceed with settling her claim at that time. She later hired an attorney to represent her, Mr. James Stanley of James Stanley, P.A., in Little Rock, who entered his appearance in the case. (RX2 at 1; Hearing Transcript).

On March 18, 2026, the respondents filed with the Commission a motion to dismiss this claim without prejudice for lack of prosecution (MTD). (Respondents' Exhibit 1). Both the claimant and her attorney were provided due and legal notice of both the respondents' MTD as well as the date, time, and place of the subject hearing. On April 3, 2026, the claimant's attorney filed a response to the respondents' MTD stating the claimant was scheduled for an updated MRI on April 9, 2026, and stating he did not believe dismissing the claim would be in the claimant's best interest.

Later that same month, on April 28, 2026, the claimant filed a second Form AR-C listing the same date of injury as her original Form AR-C and alleging additional injuries to her right shoulder and neck/cervical spine. (RX2 at 2; Hearing Transcript). The claimant's attorney appeared at the subject June 26, 2026, hearing on the respondents' MTD, explained the claimant had retired, had undergone a cervical spine surgery and was still undergoing medical treatment for which Medicare was paying. Consequently, the claimant's attorney requested a hearing in this claim in order to

determine, including but not limited to, the issues of whether the claimant's newly and recently alleged right shoulder and neck/cervical spine problems are compensable and if they are deemed compensable to what extent, if any, the claimant is entitled to payment for her medical treatment and related expenses, as well as indemnity benefits, for these new and recently alleged conditions. The respondents' attorney stated his anticipated intention to controvert the alleged right shoulder and neck/cervical spine conditions in their entirety. (Hearing Transcript).

The record herein consists of the hearing transcript and any and all exhibits contained therein or attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2025 Lexis Replacement), 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' MTD filed April 2, 2026. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record reveals the claimant has requested a hearing on the aforementioned outstanding issues in her claim.

Therefore, after a thorough consideration of the issues at bar, the applicable law as applied to the facts of this claim, and other relevant matters of record including the representations of credible counsel, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having received due and legal notice of both the respondents' MTD without prejudice filed with the Commission on March 18, 2026, as well as due and legal notice of the date, time, and place of the subject hearing, the claimant's attorney appeared in person at the hearing and requested the Commission hold a hearing in this claim.

3. Therefore, the preponderance of the evidence compels the decision the respondents' MTD without prejudice filed March 18, 2026, should be and hereby is DENIED due to the claimant's attorney's hearing request.
4. The ALJ's office shall promptly send the prehearing questionnaire documents to both the claimant's and respondents' attorneys. Once the parties' have timely filed their respective responses with the Commission, the ALJ's office shall in due course schedule a prehearing teleconference in anticipation of scheduling a hearing on any and all outstanding issues the parties identify and advise are ripe for determination and/or litigation.

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

