

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H301388

FAITH LAWSON,
EMPLOYEE

CLAIMANT

UNITED PARCEL SERVICE, INC.,
EMPLOYER

RESPONDENT

LM INSURANCE CORPORATION,
CARRIER/TPA

RESPONDENT

OPINION FILED DECEMBER 5, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in El Dorado, Union County, Arkansas.

Claimant, pro se, did not appear for the dismissal hearing.

Respondents represented by the Honorable David C. Jones, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A hearing was held on October 14, 2025, in the above-referenced matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether this case should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Appropriate notice of this hearing was tried on all parties to their last known address, in the manner instructed by law.

No testimony was taken.

The record consists of the hearing transcript of October 14, 2025, and the documents held

therein. Commission’s Exhibit 1 consisting of two pages¹ has been marked, accordingly; and the Respondents introduced into evidence an exhibit consisting of sixty-nine numbered pages, which was thus marked Respondents’ Exhibit 1. Both exhibits were introduced into evidence without objection.

Background

The procedural history of this claim is as follows:

The Claimant has been employed with UPS since 2018 as a package care delivery driver. She was delivering and removing a package from the rear of her package car when she felt a pop on her back. There was no dispute about her injury. The Respondents accepted it as compensable, and payments on benefits were started. Of note, the Claimant at one point had two claims that overlapped. The other prior overlapping claim is AWCC No.:H203243, with an injury date of April 26, 2022. That claim was dismissed pursuant to my Opinion filed on May 22, 2024.

About the present claim before the Commission, the Claimant’s former attorney filed a Form AR-C with the Commission on June 28, 2023, alleging that the Claimant sustained a compensable injury on January 17, 2023, while working for the respondent-employer. The present claim is AWCC No.:H301388. According to this document, the Claimant provided the following description of her work-related accidental injury: “Claimant was injured during the course and scope of her employment. Claimant sustained injuries to her back and other whole body.” Per the Form AR-C, the Claimant requested both initial and additional workers’ compensation benefits.

On February 28, 2023, the Respondents’ case manager filed a Form AR-2, with the Commission accepting compensability of the claim for a compensable lower lumbar/back injury.

¹ Commission’s Exhibit 1 was inadvertently left out of the hearing transcript. Therefore, it has been blue backed and made a part of the record and marked accordingly.

The Respondents filed an amended Form AR-2 with the Commission April 13, 2023. Per this amended form, the Respondents reported that the claim was compensable and that temporary total disability benefits had been started and that the claim was ongoing at that point. It appears that the primary purpose for filing this amendment was to specify the Claimant's correct compensation rates.

On September 15, 2023, the Claimant's attorney filed a request for hearing on the within claim and the other claim (AWCC No.:H203243) based on a dispute at that point which involved whether the Claimant was entitled to back surgery. The files were assigned to my office for adjudication of this issue. However, the Respondents approved the request for the Claimant to undergo surgery. As a result, counsel for the Claimant withdrew her request for a hearing and the claims were returned to the Commission's general files.

Subsequently, on February 20, 2024, the Claimant's attorney filed a motion to withdraw from representing the Claimant in both claims. On March 20, 2024, the Full Commission entered an order granting the motion.

The Claimant has not requested a hearing since the filing of her request for a hearing in September 2023, but it was later withdrawn. This action clearly occurred more than six (6) months ago.

Therefore, on or about July 11, 2025, the Respondents filed a Motion to Dismiss and Brief in Support of the Motion, with the Commission. The Respondents notified the Claimant of said motion per a certificate of service sent via the United States Postal Service on that same date.

Subsequently, on July 15, 2025, my office sent a letter-notice informing the Claimant of the Respondents' motion to dismiss, and a deadline of twenty (20) days for filing a written

response. This letter was sent via both first-class and certified mail. The letter-notice sent by way of first-class mail has not been returned to the Commission.

Per an Amended Notice of Hearing² generated on September 17, 2025, my office notified the parties that a hearing had been rescheduled on the Respondents' motion to dismiss. Said dismissal hearing was set for October 14, 2025, in El Dorado, Arkansas. This hearing notice was sent via first-class and certified mail.

The United States Postal Service returned the hearing notice sent via certified mail to the Commission on October 16, 2025, because it went unclaimed. However, the notice sent via first-class mail has not been returned to the Commission. Based on the foregoing, the evidence preponderates that the Claimant received appropriate notice of the dismissal hearing.

Still, there has been no response from the Claimant.

A hearing was in fact conducted on the Respondents' motion as scheduled. The Claimant did not appear for the hearing. However, the Respondents appeared through their attorney. The Respondents' counsel argued, among other things, that the Claimant has failed to timely prosecute her claim for workers' compensation benefits. Counsel further noted that the Claimant did not appear at the hearing to object to the dismissal or request a hearing. As such, Counsel moved that this claim be dismissed for failure to prosecute under Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

Adjudication

Therefore, the statutory provision and Arkansas Workers' Compensation Rule applicable in the Respondents' request for dismissal of this claim are outlined below:

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

² An Amended Notice of Hearing was sent rescheduling the motion to dismiss hearing because the previously scheduled dismissal hearing had to be rescheduled.

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section. Also, Ark. Code Ann. §11-9-702(d) provides:

If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d), reads as follows:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution. (Effective March 1, 1982)

A review of the evidence shows that the Claimant has had ample time to pursue her claim for workers' compensation benefits, but she has failed to do so. Specifically, the Claimant has not requested a hearing or otherwise made any effort to prosecute her claim since the filing of her request for a hearing in September 2023, which was done than six (6) months ago; and nor has she resisted the motion to dismiss her claim despite having received notice of the dismissal hearing. Moreover, the Claimant has failed to respond to the Notices of this Commission.

Thus, the evidence preponderates that the Claimant has clearly failed to prosecute this claim for workers' compensation benefits. For these reasons, I am convinced that the Claimant has abandoned her claim.

Therefore, after consideration of the evidence before me, I find that the Respondents' motion to dismiss for a lack of prosecution to be well taken.

I thus find that pursuant to Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), this claim for workers' compensation benefits is hereby respectfully dismissed *without prejudice* to the refileing of it within the limitation period specified under the Arkansas Workers' Compensation Act (referred to herein as the "Act").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Claimant's former attorney filed a request for a hearing in September 2023, which was withdrawn. Since this time, the Claimant has not requested a hearing or shown that she wishes to pursue this claim for workers' compensation benefits.
3. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held.
4. Appropriate notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
5. The evidence preponderates that the Respondents' motion to dismiss this claim for lack of prosecution is well founded, and should be hereby granted, *without prejudice*, per Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)) to the refileing of it within the limitation period specified by law.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for workers' compensation benefits. This dismissal is made pursuant to the provisions of Ark. Code

Ann. §11- 9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), *without prejudice* to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge