

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G508087**

FERESHTEH MAYNARD, EMPLOYEE

CLAIMANT

UNIVERSITY OF AR FOR MEDICAL SCIENCES, EMPLOYER

RESPONDENT

**PUBLIC EMPLOYEE CLAIMS DIVISION,
CARRIER/TPA**

RESPONDENT

OPINION FILED FEBRUARY 2, 2021

Hearing before Administrative Law Judge James D. Kennedy on the 2nd day of February, 2021, in Little Rock, Arkansas.

Claimant was *pro se* and failed to appear.

Respondents were represented by their attorney, Charles H. McLemore

STATEMENT OF THE CASE

A full hearing was scheduled in the above-styled matter on February 2, 2021, in Little Rock, Arkansas. On the morning of the hearing, but prior to the start of the hearing, the claimant contacted the Commission and the attorney for the respondent and announced that she would not be attending the hearing and had no objection to the matter being dismissed. She did not appear at the time of the hearing. An earlier Motion to Dismiss had been filed by the respondent, but it had been held in abeyance at the time and a full hearing on the merits of the claim was set. At the time of the scheduled hearing, the respondents, through their attorney, renewed its Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant contended that she was entitled to additional medical and temporary total disability (TTD) due to a compensable work-related injury that occurred on September 29, 2015. The respondents contended that all reasonable medical treatment had been provided and that the claimant was not entitled to TTD, as

she was offered light-duty work within her restrictions on January 4, 2016, but that she had refused to return to work. TTD benefits had been paid up to and including January 4, 2016.

An appropriate notice setting this matter for a hearing was provided to the claimant by both certified and regular mail, which the claimant confirmed by the telephone calls on the morning of the hearing when she stated that she would not be attending the hearing. At the time of the hearing, Charles H. McLemore appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondent, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE