

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. G907252**

**CHRISTOPHER PORTER, EMPLOYEE**

**CLAIMANT**

**CITY OF LITTLE ROCK, EMPLOYER**

**RESPONDENT**

**RISK MANAGEMENT RESOURCES, CARRIER/TPA**

**RESPONDENT**

**OPINION FILED OCTOBER 8, 2021**

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Little Rock, Pulaski County, Arkansas.

Claimant was represented by Mr. Willard Proctor, Jr., Attorney at Law, Little Rock, Arkansas. Claimant's counsel appeared at the hearing. Claimant did not appear at the hearing.

Respondents were represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held on September 16, 2021, in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W.3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. § 11-9-702 and Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was had on all parties to their last known address in the manner prescribed by law.

The record consists of the transcript of the September 16, 2021, hearing and the documents contained therein. The remainder of the Commission's file has also been made a part of the record. It is hereby incorporated herein by reference. Respondents' exhibit packet was marked as Respondents' Exhibit 1 and was made a part of the record. The packet consisted of the Form AR-1; the November 4, 2019, Form AR-C; the Form AR-2; the e-mail correspondence between the attorneys dated August 20, 2021; and the Notice of Hearing dated August 20, 2021.

## DISCUSSION

On November 4, 2019, Claimant filed a Form AR-C with the Commission requesting only a change of physician. Per this form, Claimant alleged that he sustained multiple compensable injuries on February 27, 2019, while working for Respondent-Employer. Specifically, the following description was stated for Claimant's accidental injury:

I was in the commission of doing my job checking on the welfare of homeless people in Little Rock near Springer Blvd and the exit of Interstate I-30. After exiting my city vehicle and walking a few feet behind my city vehicle I noticed 3 dogs who began chasing me as I retreated to my city vehicle. Trying not to run past the vehicle both feet went into the air and I landed on my back side, which injured my low back, neck, elbow, and right hip.

On November 6, 2019, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission. The claim for injuries to Claimant's neck, right shoulder, and low back was initially accepted as compensable.

In the matter at hand, Respondents paid for medical treatment until Claimant was released from care by physician assistant Dane Miller on September 23, 2019. Thereafter, Respondents controverted Claimant's entitlement to any additional medical treatment.

On October 5, 2020, Claimant's counsel requested a hearing for additional medical treatment. A second Form AR-C was filed with the Commission on October 7, 2020, requesting permanent partial disability benefits, as well as medical expenses and attorney fees.

A hearing on Claimant's request for additional medical treatment was held on March 11, 2021, and an Opinion was subsequently entered on June 8, 2021, denying Claimant's request for additional medical benefits. No appeal was filed by Claimant's counsel.

On July 14, 2021, Respondents filed a Motion to Dismiss for failure to prosecute. On July 21, 2021, the Commission sent a Notice to Claimant's counsel and Claimant advising them of

Respondents' Motion to Dismiss and a deadline for filing a written response. However, there was no response from Claimant or his counsel regarding this correspondence.

Pursuant to a Hearing Notice dated August 20, 2021, the Commission advised the parties that the matter had been set for a hearing on Respondents' Motion to Dismiss for failure to prosecute. Said hearing was scheduled for September 16, 2021, at 12:30 p.m. at the Arkansas Workers' Compensation Commission, Hearing Room "A," 324 S. Spring Street, Little Rock, Arkansas. Claimant's counsel responded via e-mail correspondence on August 20, 2021, indicating that he would be present at a hearing on the Motion to Dismiss.

Therefore, a hearing was in fact conducted as scheduled on the Respondents' Motion to Dismiss. Respondents appeared through their attorney. Claimant's counsel appeared on Claimant's behalf. At the hearing, Respondents' attorney advised that the claim was accepted as medical only; that all medical bills were paid until Claimant was released at full duty without an impairment rating on September 23, 2019; that Respondents controverted additional medical treatment after September 23, 2019; that Claimant's request for additional medical treatment was denied after a full hearing on March 21, 2021; and that Respondents filed a Motion to Dismiss on the remaining issues that were not litigated at the March 21, 2021, full hearing. As such, Counsel requested that the motion be granted pursuant to Commission Rule 099.13, without prejudice.

Claimant's attorney was present but took no position in response to Respondents' Motion to Dismiss.

A review of the evidence shows that Claimant has had sufficient time to pursue his claim for workers' compensation benefits. Here, the work-related injuries occurred on February 27, 2019, for which Claimant filed a Form AR-C on November 4, 2019. Respondents accepted the claim as medical only and paid medical benefits until Claimant was released without restrictions

and a zero percent (0%) impairment rating on September 23, 2019. On October 5, 2020, Claimant requested a hearing for additional medical treatment. On October 7, 2020, Claimant filed a second Form AR-C with the Commission requesting indemnity benefits, medical expenses, and attorney fees. Thereafter, the matter was scheduled for a hearing on additional medical treatment. After a hearing, an Opinion was issued denying Claimant's request for additional medical benefits. Respondents filed a Motion to Dismiss on July 14, 2021, for failure to prosecute. Claimant's attorney appeared at the hearing but did not take a position on Respondents' Motion to Dismiss. Claimant did not appear at the hearing.

Therefore, after consideration of the evidence presented, I find Respondents' Motion to Dismiss this claim to be well supported. Furthermore, I find that pursuant to Commission Rule 099.13, all Form AR-Cs filed in this matter should be dismissed for failure to prosecute. The dismissal is without prejudice.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On the basis of 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. On November 4, 2019, Claimant filed a Form AR-C with the Commission, alleging that he sustained multiple compensable injuries on February 27, 2019, while working for Respondent-Employer.
3. On November 6, 2019, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission accepting the claim for injuries to Claimant's neck, right shoulder, and low back as medical only.
4. On October 5, 2020, Claimant's counsel requested a hearing for additional medical treatment.

5. On October 7, 2020, Claimant filed a second Form AR-C with the Commission requesting indemnity benefits, medical expenses, and attorney fees.
6. A hearing on Claimant’s request for additional medical treatment was held on March 11, 2021. An Opinion was subsequently entered on June 8, 2021, denying Claimant’s request for additional medical benefits.
7. On July 14, 2021, Respondents filed a Motion to Dismiss for failure to prosecute.
8. Claimant has had sufficient time to pursue his claim for workers’ compensation benefits. Here, Claimant’s alleged work-related injury occurred on February 27, 2019, for which he filed a Form AR-C on November 4, 2019, and a second Form AR-C on October 7, 2020, with the Commission. After a full hearing on the issue of additional medical treatment, Claimant’s request for additional medical treatment was denied. To date, Claimant has failed to prosecute his workers’ compensation claim.
9. Respondents’ Motion to Dismiss for Failure to Prosecute is well founded.
10. Respondents’ Motion to Dismiss for Failure to Prosecute should be granted pursuant to Commission Rule 099.13 for failure to prosecute. All Form AR-Cs filed in this matter are dismissed, without prejudice.
11. Appropriate Notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, all Form AR-Cs filed in this matter are hereby dismissed pursuant to Commission Rule 099.13 for failure to prosecute.

This dismissal is without prejudice.

**IT IS SO ORDERED.**

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**KATIE ANDERSON**  
**ADMINISTRATIVE LAW JUDGE**