

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC CLAIM NO.: H003325**

CHASSITY WHITE, Employee	CLAIMANT
ENCOMPASS HEALTH GROUP, Employer	RESPONDENT
ARCH INSURANCE COMPANY, TPA	RESPONDENT

**OPINION AND ORDER FILED JULY 12, 2021**

Hearing conducted before Administrative Law Judge Terry Don Lucy, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable David C. Jones; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on July 9, 2021, with respect to the Respondents' Motion to Dismiss originally filed with the Commission on June 4, 2021. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did she appear during the ensuing proceedings. Respondents' Exhibit No. 1 was subsequently introduced into the record without objection. In addition, the Commission's file, inclusive of the Respondent's Motion along with its accompanying Certificate of Service reflecting the Claimant's last known address (noted below), is deemed incorporated by reference into the record and for purposes of this Opinion and Order.

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated June 4, 2021, to her last known address of P.O. Box 1023, Marion, Arkansas, 72364. Notice of the hearing scheduled for July 9, 2021, was also sent to the Claimant by the Commission via certified and first-class mail dated June 23, 2021. The Commission's file further reflects that the Commission received notice of receipt of the latter by the Claimant, with such notice provided by return receipt from the

United States Postal Service dated June 26, 2021.

Moreover, the Claimant has executed a Waiver of Appearance dated June 9, 2021, with respect to the hearing scheduled for July 9, 2021, in which she specifically requested that an Order of Dismissal be entered in regard to the present claim. (Resp. Ex. 1 at 39) Finally, both the Commission's file and Respondents' Exhibit No. 1 reflect that the Claimant has taken no action on her claim since it was returned to the Commission's general files on December 15, 2020, and has otherwise taken no appreciable action to prosecute her claim since a pre-hearing conference was held on October 14, 2020, a period of time well in excess of six months. (Resp. Ex. 1 at 2; 4)

Given the Claimant's lack of objection to the Respondents' Motion, waiver of appearance at the hearing, specific request that an Order of Dismissal be entered herein, failure to appear at the hearing held on July 9, 2021, and apparent failure to take any appreciable action to prosecute her claim since October 14, 2020, I specifically find that the Claimant has failed to prosecute her claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective July 9, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

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TERRY DON LUCY  
Administrative Law Judge

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