

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H408118**

ALEXZANDER WILLIAMS, EMPLOYEE	CLAIMANT
AMAZON COM INC., EMPLOYER	RESPONDENT
AMERICAN ZURICH INS. CO., CARRIER	RESPONDENT

OPINION FILED MARCH 26, 2026

Hearing before Administrative Law Judge O. Milton Fine II on March 26, 2026, in Little Rock, Pulaski County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Mr. Michael C. Stiles, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on March 26, 2026, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence were Commission Exhibit 1 (see Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must “conduct the hearing . . . in a manner which best ascertains the rights of the parties”)) and Respondents’ Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of 20 and 11 pages, respectively.

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The record reflects the following procedural history:

Per the First Report of Injury or Illness filed on December 17, 2024, Claimant purportedly suffered an injury to his foot on December 4, 2024, in the form of dermatitis. According to the Form AR-2 that was also filed on December 17, 2024, Respondents controverted the claim.

On July 2, 2025, through then-counsel Mark Alan Peoples, Claimant filed a Form AR-C. The boxes on the form were checked to indicate that Claimant was seeking all manner of initial benefits in connection with his alleged left foot injury. In an email accompanying this filing, Peoples stated that he was “not asking for a hearing at this time”; but he did request a change of physician on his client’s behalf. Respondents emailed the Commission on July 7, 2025, stating that their “[p]osition hasn’t changed.” Respondents’ counsel reiterated this in his email to the Commission on July 10, 2025, wherein he also made his entry of appearance. Two days later, on July 12, 2025, Respondents’ counsel objected to the change-of-physician request.

In an email to the Commission sent on September 7, 2025, Peoples moved to withdraw from the case. In an Order entered on October 1, 2025, the Full Commission granted the motion under AWCC Advisory 2003-2.

The record reflects that nothing further took place on the claim until January 20, 2026. On that date, Respondents filed the instant motion, asking for dismissal of the claim under Ark. Code Ann. § 11-9-702(a)(4) & (d) (Repl. 2012) and 11 C.A.R. § 25-110(d) due Claimant’s failure to request a hearing in this matter. The file was assigned

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to me on January 21, 2026; and on that same date, my office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent by certified and first-class mail to the North Little Rock, Arkansas address of Claimant listed in the file and on his Form AR-C. The certified letter was returned to the Commission, unclaimed, on February 12, 2026; but the first-class mailing was not returned. However, no response from him to the motion was forthcoming. On February 11, 2026, a hearing on the Motion to Dismiss was scheduled for March 26, 2026, at 10:30 a.m. at the Commission in Little Rock. The Notice of Hearing was sent to Claimant via first-class and certified mail to the same address in North Little Rock as before. In this instance, the certified letter went unclaimed and was returned to the Commission on March 4, 2026; but once again, the notice sent by first-class mail was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled on March 26, 2026. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the aforementioned authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this matter.

2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13) reads:

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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue his claim because he has taken no further action in pursuit of it (including appearing at the March 26, 2026, hearing to argue against its dismissal) since

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the filing of his Form AR-C on July 2, 2025. Thus, the evidence preponderates that dismissal is warranted under § 25-110(d). Because of this finding, the arguments made under Ark. Code Ann. § 11-9-702(a)(4) & (d) (Repl. 2012) are moot and will not be addressed.

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals *without prejudice*. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim for additional benefits is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).