

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F409553**

**PAMELA J. HIGGS, EMPLOYEE**

**CLAIMANT**

**HOSPICE HOME CARE, EMPLOYER**

**RESPONDENT**

**COMMERCE & INDUSTRY INS. CO., CARRIER**

**RESPONDENT**

**OPINION FILED JUNE 23, 2004**

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on May 25, 2005, at Little Rock, Pulaski County, Arkansas.

Claimant appeared pro se.

Respondents represented by the HONORABLE CAROL LOCKARD WORLEY, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was scheduled for May 25, 2005, in the above-styled claim to determine the claimant's entitlement to workers' compensation benefits.

On April 19, 2005, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' respective contentions relative to the issues. The Pre-hearing Order is herein designated a part of this record as Commission Exhibit #1.

During the course of the pre-hearing conference, in which claimant participated, the date, time, and location of the scheduled hearing was disclosed. Thereafter, the April 19, 2005, Pre-hearing Order was generated, reflecting the date, time, and location of the scheduled May 25,

2005, hearing, and mailed to the parties via certified mail return receipt requested. A copy of the certified mail return receipt was secured and is herein designated a part of the record as Commission Exhibit #2. The afore reflects that the Pre-hearing Order mailed to the claimant was received at her address on April 21, 2005, and that mailed to respondents was received on April 22, 2005.

On the date and time designated for the scheduled hearing in this claim, the docket was sounded and claimant failed to appear. Respondents noted that the scheduled hearing was on the issue of compensability, in that no compensation benefits had been paid to the claimant or on her behalf. Respondents moved to dismiss the claim with prejudice.

A review of the Commission's file regarding this claim reflects that claimant filed a Form AR-C with the Commission on September 14, 2004, asserting entitlement to workers' compensation benefits growing out of an injury in the employment of respondents on October 1, 2003. Respondents controvert the compensability of the claimant's claim. There is no evidence in the record or the Commission's file to reflect that the claimant has contacted the Commission since the scheduled May 25, 2005, hearing to offer an explanation for her failure to appear.

The motion of respondents to dismiss the present claim with prejudice is respectfully denied. There is no evidence of abuse of process by the claimant in the instant. The present claim should be dismissed due to the claimant's failure to prosecute same. Accordingly, this claim is dismissed for failure to prosecute, pursuant to Arkansas Workers' Compensation Commission Rule 13.

**IT IS SO ORDERED.**

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**Andrew L. Blood, Administrative Law Judge**

