

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F103372

**LAZARO MORONES,
EMPLOYEE**

CLAIMANT

**PEOPLEWORKS,
EMPLOYER**

RESPONDENT

**AMERICAN ZURICH
INSURANCE CO.,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED DECEMBER 5, 2005,

Pursuant to a hearing conducted September 20, 2005, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Ms. Carol Lockard Worley, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

Mr. Christopher D. Anderson, Attorney at Law, Little Rock, Arkansas, representing the claimant, failing to appear.

STATEMENT OF THE CASE

This was a hearing to consider the motion to dismiss filed on behalf of the respondents.

A review of the record shows that the claimant suffered compensable injuries during a motor vehicle accident arising out of and in the course of his employment as a truck driver on March 9, 2001. The respondents accepted the claim as compensable and initiated payment of benefits for temporary total disability and medical and related expense. On March 29, 2001, a request to change physicians was received and, thereafter, approved by an Order dated April 5, 2001. The claimant later contended that the case manager directed him to request a change of physician. Thereafter, the claimant received treatment that was not authorized by the respondents and not paid for by the

respondents. In October, 2004, the Commission received from the respondents a Motion to Dismiss for failure to prosecute.

Thereafter, a prehearing conference was scheduled and the claimant in his prehearing response requested additional medical expenses and indemnity benefits, including benefits for an impairment rating of 12% assessed by Dr. Barry Baskin on May 18, 2004. A telephone prehearing conference scheduled for February 22, 2005, was cancelled due to the unavailability of claimant's counsel. Thereafter, the parties forwarded a proposed joint petition settlement which was received June 13, 2005. On August 3, 2005, the current Motion to Dismiss was filed, the hearing was scheduled for September 20, 2005, and the parties were duly given appropriate notice.

At the hearing, respondent's counsel indicated that after the claimant began to pursue the Third Party cause of action he also began to seek unauthorized medical care which they controverted. Counsel also advised that benefits were last paid April 2, 2001. In addition, counsel for the claimant advised prior to the hearing that he had no objection to the dismissal. Under these circumstances, it appears that the claimant has abandoned the workers' compensation claim and the Motion should be, and it is hereby granted and this claim is hereby dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge