

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F210773**

**JANA DIANNE LONG,  
EMPLOYEE**

**CLAIMANT**

**WAL MART STORES, INC,  
SELF-INSURED EMPLOYER**

**RESPONDENT**

**CLAIMS MANAGEMENT, INC.,  
BENEFITS ADMINISTRATOR**

**RESPONDENT**

**OPINION FILED DECEMBER 4, 2006**

Pursuant to a hearing conducted October 31, 2006, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. J. Matthew Mauldin, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

Mr. Philip M. Wilson, Attorney at Law, Little Rock, Arkansas, appearing for the claimant.

**STATEMENT OF THE CASE**

This was a hearing to consider the Motion to Dismiss filed on behalf of the respondents.

On December 5, 2001, the claimant suffered an abrasion to her right eye during her employment as a cashier for the respondent employer at its store in Bryant, Arkansas. The respondents accepted the injury and initiated payment of benefits.

However, on October 1, 2002, the claimant's former counsel filed a Form AR-C requesting benefits including, inter alia, a change of physician and all initial and additional benefits provided on the form.

The file was referred to the office of the administrative law judge and a telephone prehearing conference was scheduled for November 18, 2002. The parties exchanged discovery documents but the conference was cancelled at the request of claimant's former counsel who pointed out that he had not requested a hearing. The file was returned to general files.

In April, 2004, the Commission received correspondence from claimant's current counsel indicating that her former counsel was retiring from the practice of workers' compensation law and was referring the claimant to him for additional representation.

No further action took place in the file until February, 2005, when claimant's counsel requested a hearing concerning the claimant's permanent anatomical impairment and a telephone prehearing conference was scheduled for March 22, 2005. On February 23, 2005, the Commission received a letter from claimant's counsel withdrawing the request for a hearing because the claimant had received an impairment rating. The telephone prehearing conference was cancelled and the file was returned to general files on February 23, 2005.

On March 1, 2005, claimant's counsel again requested a hearing, this time to consider the issues of permanent impairment and, subsequently, benefits under Ark. Code Ann. §11-9-505(a). A telephone prehearing conference was scheduled for March 30, 2005, and a hearing was scheduled for May 10, 2005, concerning controversion of payment of permanent anatomical impairment and benefits under Ark. Code Ann. §11-9-505(a). On April 19, 2005, the Commission received correspondence indicating that the parties were jointly requesting a continuance. The hearing was then cancelled and the file was returned to general files.

No further action occurred in the file until the respondents filed a Motion to Dismiss October 2, 2005, and a hearing was scheduled October 31, 2005. At the hearing, claimant's counsel appeared and stated that the claimant had advised him that there were unpaid medical benefits for medical treatment and medical mileage. Respondent's counsel indicated a willingness to try to resolve the current dispute without the necessity of additional proceedings. Thus, it appears that the parties continue to have issues in dispute, so that the claim should not be dismissed.

Accordingly, at this time, the Motion to Dismiss should be, and it is hereby, respectfully denied and dismissed.

**IT IS SO ORDERED.**

---

RICHARD B. CALAWAY  
Administrative Law Judge