

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F113848

VIVIAN MAHURIN	CLAIMANT
ROGERS HIGH SCHOOL	RESPONDENT
RISK MANAGEMENT RESOURCES, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED MAY 31, 2006

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in
Springdale, Washington County, Arkansas.

Claimant represented by EVELYN BROOKS, Attorney, Fayetteville,
Arkansas.

Respondents represented by CURTIS NEBBEN, Attorney, Fayetteville,
Arkansas.

STATEMENT OF THE CASE

A hearing was held on the Respondent's Motion to Dismiss on
April 3, 2006, in Springdale, Arkansas. The claimant objected to
such a dismissal.

The Commission's file indicates that this case was initially
accepted as compensable and significant benefits have been paid.
On February 13, 2005, the claimant filed a pre-hearing
questionnaire and requested a hearing. In the attached pre-hearing
questionnaire the claimant identified the issues to be litigated
as:

"Claimant's right to receive permanent
impairment, wage loss, and a penalty."

This pre-hearing questionnaire went on to indicate that the
apparent reason for the requested hearing was the fact that the
respondents would not offer the claimant any amount to settle or
joint petition her case.

A pre-hearing conference was subsequently held on April 5, 2005, and a pre-hearing order was entered. In this pre-hearing order, the issues were identified as:

“(1) whether the benefits for permanent partial disability benefits were controverted, and the claimant’s attorney is entitled to a fee on these benefits.

(2) The claimant’s entitlement to a replacement of her right elbow.”

A hearing was scheduled on these issues for June 6, 2005.

At the request or by the agreement of both parties, the hearing, which was scheduled for June 6, 2005, was cancelled with the understanding that the matter would not be reset until requested by either of the parties. Confirmation was provided by from the claimant’s attorney indicating that the previous disputed issues had been resolved by agreement.

The claim was returned to general files. No further action was taken by either party, until the Respondents’ Motion to Dismiss, which was filed on February 15, 2006.

DISCUSSION

____ Although the claimant objects to a dismissal of any pending claim for additional benefits, she has not identified any specific benefits to which she might be entitled, at the present time, which have not been provided by the respondents. Again, the matter of the possibility of an elbow replacement has been brought up. However, there was no evidence presented to indicate that such a

replacement is recommended at the present time, or that the respondents have denied liability for such treatment.

At the hearing, the claimant was given 45 days to specifically identify any benefit to which she might currently be entitled and which has been disputed by the respondent. The claimant has failed to identify any specific disputed benefit during this period.

Therefore, there is simply no reason for a pending claim for additional benefits. All appropriate benefits, which have accrued to date, have apparently been provided. To allow the claimant to retain an open or pending claim for additional benefits, merely to toll the statute of limitations, would not be in accord with either the intent, purpose, or express provisions of the Act.

I find that the Respondents' Motion to Dismiss any pending claims for additional benefits, without prejudice, should be and hereby is granted.

IT IS SO ORDERED.

MICHAEL L. ELLIG
Administrative Law Judge