

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F411261**

**TREY TURLEY, EMPLOYEE**

**CLAIMANT**

**BAPTIST HEALTH, EMPLOYER**

**RESPONDENT**

**CROCKETT ADJUSTMENT, CARRIER**

**RESPONDENT**

**OPINION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**FILED MARCH 8, 2006**

This matter comes before the Commission on the respondents' Motion to Dismiss, dated December 13, 2006. A hearing on the Motion was conducted on March 7 2006, in Little Rock, Pulaski County, Arkansas. The claimant did not appear. The respondents were represented by Ms. Gail Ponder Gaines, Attorney at Law, of Little Rock, Arkansas. At the hearing, the Respondents moved for dismissal of the case due to the nonappearance of claimant. Based on the evidence, I find that:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. A Notice of Hearing was mailed to the claimant on February 7, 2006 by certified mail, return receipt requested and by regular mail.
3. The certified return receipt evidencing delivery to the claimant was signed on February 9, 2006 by Trey Turley.
4. Claimant failed to appear for the hearing despite actual notice of the time, date, and place thereof.
5. Claimant filed a claim for compensation on October 20, 2004, which has been pending for over six (6) months with no bonafide request for hearing.

Rule 99.13 of the Rules of the Arkansas Workers' Compensation Commission provides, in pertinent part:

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

Ark. Code Ann. § 11-9-702(a)(4) provides that upon motion and hearing, that the claim may be dismissed without prejudice if no bonafide request for hearing has been made within six (6) months of the filing of the claim. In the instant case, there has been no request for hearing since the claim was filed over a year ago.

Therefore, I find that Respondents' Motion to Dismiss should be, and hereby is, granted without prejudice to refiling within the appropriate statute of limitations time period.

**IT IS SO ORDERED.**

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**BARBARA WEBB**  
Administrative Law Judge