

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F113848

VIVIAN MAHURIN

CLAIMANT

ROGERS SCHOOL DISTRICT

RESPONDENT

RISK MANAGEMENT RESOURCE,
TPA

RESPONDENT

OPINION FILED JUNE 15, 2007

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 in the above styled claim on June 11, 2007, in Springdale, Arkansas.

A Motion to Dismiss was filed by the respondents in this claim on April 26, 2007. A copy of this Motion was made Commission's Exhibit No. 1 to the hearing. The claimant appeared at the hearing through counsel and objected to the Motion (see T. 1).

The entire Commission's file was also made an exhibit and was incorporated by reference in the transcript of the current proceeding.

DISCUSSION

_____This claim was initially accepted by the respondents as compensable and appropriate benefits were paid. On February 16, 2005, the claimant filed a claim for additional benefits in the form of permanent partial disability benefits for permanent physical impairment and wage loss. At that time, a claim was also

made for imposition of the penalty on benefits due without an award. The hearing scheduled on this claim was subsequently cancelled by agreement of the parties. No other hearing was requested, and this claim for additional benefits was ultimately dismissed by an Opinion dated May 31, 2006.

On June 19, 2006, another claim for additional benefits was filed on behalf of the claimant. At that time, the benefits requested were additional medical services. Again, this claim for additional benefits was set for a hearing. Prior to the hearing, the respondents agreed to pay the disputed medical bills and the hearing was cancelled. No subsequent hearing was requested. Ultimately, the respondents filed the current Motion to Dismiss any pending claims for additional benefits.

The claimant admits that the benefits requested in the prior claim for additional benefits have been paid and that there is no longer any dispute over the additional benefits previously requested. The claimant does object to the granting of the respondents' Motion on the basis that other additional benefits may be owing. However, no formal claim for such benefits has yet been made.

Obviously, the respondents are seeking to dismiss this current claim for additional benefits in order to prevent it from forever tolling the statute of limitations. This is clearly their right. The legislature has seen fit to establish a statute of limitations in regard to workers' compensation claims. Its desire in this regard should not be thwarted by allowing a claim for additional

benefits to remain forever pending, when the benefits requested in this claim have been paid and this claim no longer remains in dispute. Therefore, I find that the respondents' Motion should be granted and the claim for additional benefits previously filed with this Commission should be dismissed.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On September 11, 2001, the relationship of employee-self insured employer-third party administrator existed between the parties.

3. On September 11, 2001, the claimant sustained a compensable injury to her right elbow.

4. On June 19, 2006, a claim for additional benefits, in the form for additional medical services was filed with this Commission. This matter was subsequently resolved, by agreement, between the parties, prior to the scheduled hearing on this matter.

5. No subsequent request for a hearing on this issue, has been made, since the cancellation of the prior hearing that was scheduled for October 9, 2006.

6. No further claims for additional benefits have subsequently been filed.

7. Pursuant to the provisions of Ark. Code Ann. §11-9-702(d), the present pending claim for additional benefits should be dismissed without prejudice.

ORDER

The prior claim for additional benefits, filed on June 19, 2006, should be and hereby is dismissed. This dismissal is without prejudice to the filing of a subsequent claim for additional benefits within the time period allowed by Ark. Code Ann. §11-9-702(b).

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE