

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F609395

PATRICIA BERNAL-NUNEZ, Employee	CLAIMANT
WAL-MART ASSOCIATES, Employer	RESPONDENT
CLAIMS MANAGEMENT, INC., Carrier	RESPONDENT

OPINION/ORDER FILED FEBRUARY 14, 2008

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

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

Respondents represented by TOD BASSETT, Attorney, Fayetteville, Arkansas.

OPINION/ORDER

This case comes on for review following a hearing on respondent's motion to dismiss.

On September 26, 2006 claimant filed Form AR-C. Claimant did not request a hearing and as a result respondent filed a motion to dismiss on June 22, 2007. A hearing was held on the respondent's motion on September 19, 2007. At that hearing, claimant's attorney indicated that a hearing had not been requested because claimant was seeking additional medical records. Accordingly, the respondent's motion to dismiss was denied in an order filed October 5, 2007.

The medical records previously sought by the claimant were received but no hearing was requested. As a result, respondent filed a second motion to dismiss on November 30, 2007 and a hearing was scheduled for January 23, 2008. Notice of the scheduled hearing was sent to the claimant by certified mail; however, claimant did not appear at the hearing. At the hearing, claimant's attorney indicated that she had lost contact with her client and had been unable to discuss the claim with her for several months.

Based upon the foregoing evidence, I find that respondent's motion to dismiss this claim should be granted. Claimant has the responsibility to remain in contact with her

attorney so that the claim which she filed may be pursued in a timely manner. Claimant has failed to do so and has failed to prosecute her claim. Therefore, I find that respondent's motion to dismiss this claim for failure to prosecute should be and hereby is granted pursuant to Commission Rule 13. This dismissal is without prejudice.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE