

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E119933

JUDY K. REED, EMPLOYEE	CLAIMANT
CONTINENTAL GRAIN, EMPLOYER	RESPONDENT
INSURANCE CO. OF NORTH AMERICA/ ESIS (TPA), CARRIER	RESPONDENT

ORDER FILED NOVEMBER 3, 2003

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE C. BURT NEWELL, Attorney at Law, Hot Springs, Arkansas.

Respondent represented by HONORABLE BETTY DEMORY, Attorney at Law, Little Rock, Arkansas.

ORDER

This case comes on review before the Full Commission on the claimant's Motion to Remand For A New Scheduling Order. After considering the claimant's motion, the respondents' objection thereto, and all other matters properly before the Commission, we find that the motion should be denied.

In an opinion dated July 30, 2003, the Administrative Law Judge found that the respondents were responsible for continuing to pay reasonable and necessary medical benefits to the claimant, including but not limited to the refilling of prescriptions for Amitriptyline,

Sulindac and Protonix. On August 12, 2003, the respondents filed a Notice of Appeal with the Commission. On August 25, 2003, the Clerk of the Commission set forth a briefing schedule which stated that the respondents' brief was due September 19, 2003, and the claimant's brief was due on October 3, 2003. The respondents' reply brief was to be due October 10, 2003. On September 19, 2003, the respondents filed their brief. On October 13, 2003, the respondents filed a letter with clerk of the Commission stating that they would not be filing a reply brief because the claimant did not file a brief.

On October 15, 2003, the claimant filed a Motion to Remand For New Scheduling Order. In the Motion, the claimant's attorney stated that he had mistakenly entered October 22, 2003, as the date that the claimant's brief was due. October 22, 2003, was the date that the case was to be submitted to the Full Commission. In his motion to the Commission, the claimant's attorney stated that the error was not noticed until he received the letter from the respondent stating that they would not file a reply brief. The Motion states that the respondents were consulted and did not wish to accord in the claimant's request.

Correspondence from the Commission establishing the original briefing schedule clearly states:

"(A)ny extension requests must be submitted in writing prior to the due date." [Original emphasis]

The claimant's motion was filed twelve (12) days past the due date for the claimant's brief. Since the claimant's motion was untimely filed, I find that it must be denied. The claimant's attorney offers no explanation other than he just wrote the wrong to excuse his failure to file the brief timely. The Commission conducts a de novo review of the record. The brief is not necessary in order for the Commission to conduct such a review. We assure both parties that we will review not only respondents' brief, but all of the evidence in the record before us.

Accordingly, we find that the claimant's Motion should be, and hereby is, denied.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner