

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F510947

BERTHA J. HELLUMS, EMPLOYEE	CLAIMANT
PIONEER NURSING & REHAB CENTER, INC., EMPLOYER	RESPONDENT NO. 1
RISK MANAGEMENT RESOURCES, INSURANCE CARRIER/TPA	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2

**OPINION FILED MAY 27, 2009**

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

Claimant represented by the HONORABLE FREDERICK S. "RICK" SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondent No. 1 represented by the HONORABLE CAROL WORLEY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 did not participate in the hearing.

Decision of Administrative Law Judge: Affirmed and Adopted.

**OPINION AND ORDER**

Claimant appeals from a decision of the Administrative Law Judge filed August 13, 2008.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.

2. The stipulations set forth above are reasonable and are hereby accepted.
3. The objection by Respondents No. 1 at the hearing to Claimant's testimony concerning a statement that her treating physician made is overruled.
4. Claimant's objection at the hearing to Gaye Tate's testimony concerning her recent observation of Claimant is overruled.
5. Claimant has not failed to prosecute her claim; therefore, the motion to dismiss for want of prosecution under AWCC R. 099.13 is denied.
6. Claimant has not proven by a preponderance of the evidence that she is entitled to additional medical treatment in that she has not shown that the proposed treatment, including a functional capacity evaluation, is causally related to her compensable injury.

The claimant alleges that she sustained a compensable injury that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury by a preponderance of the evidence.

We have carefully conducted a de novo review of

the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.