

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F805264/F900569

MARGARET A. SMITH, EMPLOYEE	CLAIMANT
MORRISON MANAGEMENT SPECIALIST, EMPLOYER	RESPONDENT
CAMBRIDGE INTEGRATED SERVICES, INSURANCE CARRIER	RESPONDENT

ORDER FILED JUNE 15, 2010

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

Claimant appeared pro se.

Respondent No. 1 represented by HONORABLE LEE J.  
MULDROW, Attorney at Law, Little Rock, Arkansas.

**ORDER**

This matter is currently before the Commission on Respondents' Motion Objecting to Claimant's Attachments to Appeal Filing. After consideration of respondents' motion, claimant's response thereto, and all other matters properly before the Commission, we find that respondents' motion must be, and hereby is granted.

On May 7, 2010, claimant filed a Notice of Appeal to the Court of Appeals from our April 12, 2010, Opinion and Order wherein we affirmed and adopted the findings and conclusions of the Administrative Law Judge. Included in claimant's notice of appeal was a

handwritten document setting forth claimant's points for appeal including a disagreement over the accuracy of the hearing transcript, highlights from specific medical reports introduced into evidence at the hearing, an associate counseling report, as well as, arguments regarding the controversion of the claim, information contained on the AR-2 forms, tracking information regarding the mailing of medical records to the carrier, and details regarding a recent doctor's visit. Claimant attached copies of the transcript, the Administrative Law Judge's opinion and medical records which were previously admitted into evidence. Respondents do not object to the attachments of any documents which were properly admitted into evidence. However, respondents do object to claimant's attachment of any documents which go beyond the record.

Arkansas Code Annotated § 11-9-705(c)(1) (Repl. 2002) provides that all evidence must be submitted at the initial hearing on the claim. In order to submit new evidence, the moving party must show that the newly discovered evidence is (1) relevant; (2) is not cumulative; (3) will change the result; and that (4) the party seeking to introduce the evidence was diligent. Mason v. Lauck, 232 Ark. 891, 340 S.W.2d 575 (1960); Haygood v. Belcher, 5 Ark. App. 127, 633 S.W.2d

391 (1982).

The Commission has broad discretion with reference to admission of evidence and our decision will not be reversed absent a showing of abuse of that discretion. Clark v. Peabody Testing Service, 265 Ark. 489, 579 S.W.2d 360 (1979); W.W.C. Bingo v. Zwierzynski, 53 Ark. App. 288, 921 S.W.2d 954 (1996); Litnthicum v. Mar-Bax Shirt Co., 23 Ark. App. 26, 741 S.W.2d 275 (1987); Southwest Pipe and Supply v. Hoover, 13 Ark. App. 144, 680 S.W.2d 723 (1984).

We find that the evidence claimant seeks to introduce with her notice of appeal must be excluded. The hearing was held on August 27, 2009. With the exception of the medical report dated April 1, 2010, all other documents attached to the claimant's notice of appeal that were not previously introduced into evidence were in existence at the time of the hearing. Claimant was not diligent in seeking to introduce these documents. Moreover, we find that the these documents will not change the results of the case. Therefore, we find that the AR-2s and the tracking confirmation are not admissible and must be excluded from the record. We further find that the April 1, 2010, medical report is not relevant to the issue of compensability, is cumulative of other medical reports, and will not change

the results of the claim. Therefore, we find that the April 1, 2010, medical report is not admissible and must be excluded from the record.

Accordingly, for those reasons set forth herein, we find that respondents' Motion to Objecting to the Attachment of Documents that Go Beyond the Record, is hereby granted.

IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.