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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**ZENAIDA JENSEN,**

**Petitioner,**

**vs.**

**SOUTH DAVIS COMMUNITY  
HOSPITAL,**

**Respondent.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 08-1128**

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Zenaida Jensen asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Lima's dismissal "without prejudice" of Ms. Jensen's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers' Compensation Act.

**BACKGROUND**

Ms. Jensen filed an application for hearing with the Commission's Adjudication Division claiming workers' compensation benefits from South Davis Community Hospital for an alleged work injury that occurred on August 23, 2000. However, Ms. Jensen failed to include with her application a list of her medical providers and a release allowing access to her medical records. The Division returned Ms. Jensen's application to her, with instructions to resubmit it with the missing documents. The Division also informed Ms. Jensen that if the documents were not received within 60 days, the Division would dismiss Ms. Jensen's application.

Ms. Jensen did not submit the documents. Consequently, on December 4, 2008, Judge Lima dismissed Ms. Jensen's claim without prejudice.

Ms. Jensen now asks the Appeals Board to reinstate her application. In support of this request, Ms. Jensen asserts that she attempted to comply with the Division's requirements and that she completed and filed all the documents the Division sent to her.

**DISCUSSION**

The Labor Commission's rules require that an injured worker claiming workers' compensation benefits must file an application for hearing that includes several supporting documents, including a list of the injured worker's medical providers and a signed release allowing

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access to the injured worker's medical records. The application form notifies injured workers of these requirements and also advises that applications may be dismissed if the supporting documents are not submitted.

In this case, Ms. Jensen contends she completed and submitted all documents she received. However, the Appeals Board has reviewed the file in this matter and finds no medical provider list or medical release. Furthermore, the Division specifically advised Ms. Jensen on October 1, 2008, that the documents were missing. Under these circumstances, the Appeals Board must conclude that Judge Lima properly dismissed Ms. Jensen's application without prejudice for failure to submit the necessary documents.

Because Ms. Jensen's application has been dismissed "without prejudice," Ms. Jensen is entitled to pursue her claim for benefits in the future by refile her application, **with all required supporting documentation**. Ms. Jensen is encouraged to contact the Commission's Adjudication Division at 801-530-6691 if she requires assistance in understanding or complying with these requirements.

**ORDER**

The Appeals Board affirms Judge Lima's dismissal without prejudice of Ms. Jensen's claim for workers' compensation benefits.

Dated this 24<sup>th</sup> day of March, 2009.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.