ISSUES

I. Whether the Administrative Law Judge has jurisdiction to determine the validity of the Final Admission of Liability and whether the claim is closed

II. Whether the Rule 6 "Demand" letters generally referencing "Telecare Anywhere" as an authorized treating physician were proper.

III. Whether Claimant's claim is closed due to Claimant's failure to object to the April 1, 2024, and/or May 3, 2024, Final Admission of Liability within 30 days, and apply for a hearing on any disputed issues that are ripe for adjudication.

PROCEDURAL MATTERS – NOTICE TO CLAIMANT

This matter was initially set for hearing on November 14, 2024, before Administrative Law Judge Kara R. Cayce. Claimant did not appear. Judge Cayce found that the Notice of Hearing had been mailed to Claimant's last known address of 12160 East Center Drive, Aurora, CO 80012 and concluded that the notice was likely received.

Following Claimant's nonappearance, Judge Cayce issued an Order to Show Cause directing Claimant to explain his failure to appear. The Order required that: (1) Claimant submit, within 30 days of the date of the Order, a written showing of good cause for his failure to appear on November 14, 2024; (2) if good cause were established within that time, the ALJ would issue an order to that effect and schedule a de novo hearing; and (3) if no good cause were shown, the ALJ would issue an order to that effect and reset the hearing within 30 days for presentation of Respondents' evidence. Claimant did not respond to the Order to Show Cause.

The hearing was set for February 19, 2025; however, that hearing was continued, pursuant to an order, because of a family emergency involving Respondents' counsel.

On February 19, 2025, Respondents rescheduled the hearing for March 11, 2025, and issued a Hearing Confirmation, which was mailed to Claimant at 12160 East Center Drive, Aurora, CO 80012. The confirmation stated that the hearing would be held on March 11, 2025, in Denver at 1:30 p.m. That same day, the Office of Administrative Courts (OAC) issued a Notice of Hearing (NOH) confirming the March 11, 2025, hearing at 1:30 p.m., to be held at the OAC, 1525 Sherman Street, 4th Floor, Denver, CO 80203. The NOH was also mailed to Claimant at his last known address.[1] The NOH was not returned to the OAC as undeliverable.

[1] The address used to provide Claimant notice of the proceedings is the same address used by the Division of Workers' Compensation on their April 4, 2024, letter to the adjuster regarding the filing of the April 1, 2024, Final Admission of Liability.

Claimant did not appear for the March 11, 2025, hearing. Based on the record, the undersigned concluded that proper notice of the March 11, 2025, hearing was provided by mailing the NOH to an address at which Claimant was likely to receive it. Accordingly, the hearing proceeded in Claimant's absence.

FINDINGS OF FACT

Based on the evidence presented at hearing, the Judge enters the following specific findings of fact:

1. This matter involves an admitted claim with a date of injury of January 22, 2024.
2. On February 6, 2024, Claimant failed to attend a scheduled medical appointment.
3. On February 12, 2024, the insurer issued a certified letter to Claimant rescheduling the missed appointment for February 15, 2024. The letter warned expressly that failure to attend the rescheduled appointment would result in suspension of temporary disability benefits pursuant to § 8-42-105(c), C.R.S.
4. Claimant did not attend the rescheduled medical appointment on February 15, 2024.
5. On February 20, 2024, the medical provider confirmed in writing that Claimant had not attended the February 15 appointment and rescheduled the appointment for February 27, 2024.
6. On February 21, 2024, the insurer issued another certified letter to Claimant advising that the appointment had been rescheduled for February 27, 2024, and again warning that failure to attend would result in suspension of temporary disability benefits.
7. Claimant failed to attend the medical appointment on February 27, 2024.
8. On February 28, 2024, the insurer issued a 30-day letter to Claimant advising that he had not attended his rescheduled medical appointments and instructing him to schedule a follow-up appointment. The letter stated: "PLEASE BE ADVISED THAT FAILURE TO RESPOND TO THIS LETTER WITHIN THIRTY (30) DAYS WILL RESULT IN A FINAL ADMISSION OF LIABILITY BEING FILED WITH THE DIVISION OF WORKERS' COMPENSATION." The letter also requested that Claimant indicate whether he was seeking additional medical treatment or believed he had recovered and was not claiming permanent impairment.
9. Respondents' counsel represented at hearing that Claimant did not respond to the 30-day letter.
10. On April 1, 2024, the insurer filed a Final Admission of Liability (FAL), reflecting that Claimant's temporary disability benefits had been suspended as of February 27, 2024.
11. On April 4, 2024, the Division of Workers' Compensation issued a letter to the adjuster indicating that the April 1, 2024, FAL was deficient. The Division indicated that a response was required within 15 days. They also indicated that if the requested documentation could not be provided, temporary benefits were to continue. Lastly, the Division also requested that the adjuster submit either correspondence stating its position or an amended admission with a new certification of mailing within 15 days of receipt of the letter.

12. On May 3, 2024, the insurer filed a revised FAL.
13. According to representations made by Respondents' counsel, Claimant did not file a timely objection to either the April 1 or May 3 FAL, nor file an Application for Hearing on any disputed and ripe issues as required by § 8-43-203(2)(b)(II), C.R.S.
14. Respondents' counsel also indicated that he was not sure whether the Division had issued a subsequent letter asserting that the May 3, 2024, FAL was deficient.
15. A certified copy of the Division file was not submitted into the record.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Judge draws the following conclusions of law:

Pursuant to § 8-43-201, C.R.S., administrative law judges have original jurisdiction to hear and decide all matters arising under Articles 40 to 47 of Title 8 of the Colorado Revised Statutes. This jurisdiction is limited to the adjudication of actual disputes between parties. As held by *Franklin v. Colorado Springs Sch. District 11*, W.C. No. 4-436-174, 2007 (July 25, 2007), this statutory language does not authorize administrative law judges to issue advisory opinions in the absence of a present controversy.

Here, Claimant is not currently seeking any workers' compensation benefits. Claimant has not filed an Application for Hearing, nor has he asserted entitlement to any temporary disability, permanent impairment, or medical benefits. Likewise, Respondents are not presently asserting any defenses to a claim for benefits. Respondents maintain that the claim is closed pursuant to the FAL filed on April 1, 2024, or May 3, 2024, but no Application or formal objection challenging the FALs is pending before this court.

In *Franklin*, the Panel emphasized that administrative tribunals may not issue rulings contingent upon the occurrence of hypothetical or future events, nor may they resolve questions in the abstract simply to clarify the parties' legal positions. The current posture of this case presents no justiciable issue. Rather, the inquiry about the "validity" or "technical sufficiency" of the FALs has been raised absent any request by Claimant for benefits or any legal disagreement as to entitlement to additional benefits. As such, there is no controversy to resolve under § 8-43-201, C.R.S., and ruling on the validity of the FALs and whether the case is closed under these circumstances would amount to an impermissible advisory opinion.

Accordingly, the undersigned concludes that jurisdiction is lacking to issue a decision on the sufficiency or effect of either FAL in the absence of an actual dispute between the parties.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Judge enters the following order:

1. The request for a determination regarding the sufficiency or validity of either Final Admission of Liability and whether the case is closed is hereby dismissed for lack of jurisdiction.

2. This dismissal is without prejudice to either party's right to raise a justiciable dispute in the future.

If you are dissatisfied with the Judge's order, you may file a Petition to Review the order with the Denver Office of Administrative Courts, 1525 Sherman St., 4th Floor, Denver, CO 80203. You must file your Petition to Review within twenty (20) days after mailing or service of the order, as indicated on certificate of mailing or service; otherwise, the Judge's order will be final. You may file the Petition to Review by mail, as long as the certificate of mailing attached to your petition shows: (1) That you mailed it within twenty (20) days after mailing or service of the order of the Judge; and (2) That you mailed it to the above address for the Denver Office of Administrative Courts. For statutory reference, see section 8-43-301(2), C.R.S. For further information regarding procedures to follow when filing a Petition to Review, see Rule 26, OACRP. You may access a petition to review form at: http://www.colorado.gov/dpa/oac/forms-WC.htm.

DATED: April 7, 2025

/s/ Glen Goldman

Glen B. Goldman
Administrative Law Judge
Office of Administrative Courts
1525 Sherman Street, 4th Floor
Denver, CO 80203