

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DOROTHY KETTLER,

Plaintiff-Appellant,

v

ALPINE REGIONAL CENTER FOR  
DEVELOPMENTAL DISABILITIES AND  
ACCIDENT FUND OF MICHIGAN,

Defendant-Appellee.

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UNPUBLISHED

January 6, 1998

No. 199437

WCAC

Docket No. 93-0799

Before: Saad, P.J., and Holbrook and Doctoroff, JJ.

PER CURIAM.

Our Supreme Court has remanded this matter to this Court for consideration as on leave granted. Plaintiff appeals an order entered on September 15, 1995 by the Worker's Compensation Appellate Commission (WCAC) denying reconsideration of an order entered on June 28, 1995, dismissing her appeal. We affirm.

In a decision mailed on August 16, 1993, a magistrate denied plaintiff's claim for benefits. Plaintiff filed a timely claim for review and requested an extension of time to file her brief. By letter, the WCAC granted plaintiff a sixty-day extension until January 8, 1994, in which to file her brief. The letter stated that failure to file a brief in a timely manner would result in dismissal or summary affirmance.

Plaintiff's counsel contacted defense counsel to determine if he would object to a short delay in filing the brief (i.e. after January 8, 1994). Defense counsel indicated that he would not object and plaintiff's brief was ultimately filed on January 20, 1994 – twelve days after the extended period expired. Defendant filed its brief on March 23, 1994.

In an order entered on June 28, 1995, the WCAC dismissed plaintiff's appeal for failure to file her brief in a timely manner. Plaintiff moved for reinstatement/reconsideration, and defendant did not respond to the motion. On September 15, 1995, the WCAC denied plaintiff's motion, finding that sufficient cause for reinstatement had not been shown. Following denial of leave to appeal to the Court of Appeals, the Supreme Court remanded to our Court for consideration as on leave granted.

In 1992, the WCAC announced that for appeals filed on or after January 1, 1993, it would apply a policy of strict adherence to filing deadlines and briefs for transcripts. *Marshall v D J Jacobetti Veterans Facility*, 447 Mich 544, 549-550; 526 NW2d 585 (1994). The policy stated that any motion for extension of time was required to be filed within the filing deadlines established by MCL 418.861a(5); MSA 17.237(861a)(5), and that a timely filed motion would result in the granting of an automatic sixty-day extension from the date of the extension letter. *Id.*

We find that the WCAC's decision denying reconsideration of its original order should be affirmed. The strict adherence policy applied to this appeal. The letter which plaintiff's counsel received granting the original sixty-day extension did not indicate that a motion to dismiss would be required before the case was dismissed. Notwithstanding the clear notice provided in the letter, plaintiff's brief was filed twelve days late, and plaintiff did not file a second motion to extend time. The strict adherence policy does not automatically excuse a late filing simply because it is concurred in by opposing counsel.

We are not persuaded by plaintiff's reliance upon *Laudenslager v Pendell Printing, Inc*, 215 Mich App 167; 544 NW2d 721 (1996), where this Court reversed and remanded for plenary consideration after the WCAC had dismissed an appeal when the plaintiff's brief was filed one day late. Plaintiff correctly points out that in the instant case, as in *Laudenslager*, defendant was not prejudiced by the delay. However, in *Laudenslager*, the late filing was due, at least in part, to a holiday mail delay. Here, plaintiff has supplied no reason for the twelve-day delay.

Affirmed.

/s/ Henry William Saad  
/s/ Donald L. Holbrook, Jr.  
/s/ Martin M. Doctoroff