

APPEAL NO. 980017

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 20, 1997. With respect to the issues, the hearing officer determined that respondent (claimant) had not made an election of remedies to seek benefits under a group health policy, that claimant had sustained a compensable injury, that claimant had timely reported a work-related injury to the employer and that claimant had a certain period of disability.

Appellant (carrier) appealed the determinations adverse to it based on insufficiency of the evidence and requests that we reverse the hearing officer's decision and render a decision in its favor. Claimant responds, urging affirmance.

DECISION

Because the audiotape(s) of the record of the proceeding is not available, although requested, and there is no record to review, pursuant to Section 410.203, we reverse and remand.

The Appeals Panel cannot render an informed decision on the merits in this case without a record of the proceeding and evidence considered. Accordingly, we reverse the decision of the hearing officer and remand the case for reconstruction of the record or the forwarding of the record of the proceedings if it can be located. At such time, the parties should be advised that a new decision has been rendered or the decision has been reissued and that any appeal or response must be reasserted and filed in the case, if desired. Texas Workers' Compensation Commission Appeal No. 971879, decided October 29, 1997.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Susan M. Kelley
Appeals Judge