

APPEAL NO. 990550

Following a contested case hearing (CCH) held on February 5, 1999, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the sole disputed issue by determining that the appellant (claimant) is not entitled to supplemental income benefits for the 10th compensable quarter which began on September 24 and ended on December 23, 1998. Claimant has appealed, contending the evidence established that he had no ability to work during the filing period. The file does not contain a response from the respondent (carrier).

DECISION

Because a record of the CCH is not available for our review, we reverse and remand.

Section 410.203(a) of the 1989 Act provides that the Appeals Panel shall consider the record developed at the hearing and the written request for appeal and response filed with the Appeals Panel. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.2(a) (Rule 143.2(a)). The record of the hearing has not been provided to the Appeals Panel and thus we cannot review the record for error. Accordingly, we reverse the decision and order of the hearing officer and remand the case for the reconstruction and/or provision of the record for our review.

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 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.

---

Philip F. O'Neill  
Appeals Judge

CONCUR:

---

Stark O. Sanders, Jr.  
Chief Appeals Judge

---

Thomas A. Knapp  
Appeals Judge