

## APPEAL NO. 001643

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 originally scheduled for May 18, 2000, and reset to June 7, 2000. The respondent (claimant) did not appear at the CCH scheduled for June 7, 2000, and the Texas Workers' Compensation Commission (Commission) sent a letter dated June 7, 2000, indicating that the claimant had 10 days to contact the Commission. The claimant failed to contact the Commission or the ombudsman regarding her nonappearance at the CCH and the record closed on June 22, 2000. The hearing officer determined that the maximum medical improvement (MMI) date is July 15, 1999, and that the claimant's impairment rating (IR) is that assigned by the designated doctor; however, the decision refers both to a seven percent and nine percent IR, and payment of impairment income benefits (IIBs) is ordered for a number of weeks that does not correspond to either IR.

The appellant (carrier) appealed, pointing out that a clerical error was made. The appeals file does not contain a response from the claimant.

### DECISION

As there is no evidentiary support for the hearing officer's decision, we reverse and remand for proper development and consideration of the evidence.

The hearing officer has found numerous facts, among them that the designated doctor was Dr. H and that he certified that the claimant reached MMI on July 15, 1999, with a seven percent IR. The hearing officer then concludes, as a matter of law, that the claimant's IR is nine percent. The matter becomes further confused in the decision and order, which orders the carrier to pay 23 weeks of IIBs, a figure which ties to neither stated IR.

There is no record in the case. In the CCH file there is a benefit review conference report and procedural documents relating to resetting the case and notifying the claimant to appear.

What is effectively a "default judgment" must have evidentiary support. At a bare minimum, that would include evidence that establishes jurisdiction, venue, appointment of the designated doctor, and the MMI/IR certification of the designated doctor. Texas Workers' Compensation Commission Appeal No. 92635, decided January 8, 1993; Texas Workers' Compensation Commission Appeal No. 941698, decided February 2, 1995; Texas Workers' Compensation Commission Appeal No. 961391, decided September 3, 1996; and Texas Workers' Compensation Commission Appeal No. 972264, decided December 19, 1997. There being no record upon which to base an asserted "correction," we remand for proper development of a record and issuance of a decision which is based upon that record and makes consistent findings of fact, conclusions of law, and orders.

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 Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge