

APPEAL NO. 002849

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 28, 2000, a hearing was held. The hearing officer decided that the appellant (claimant) had failed to meet her burden to prove that the respondent (carrier) had failed to pay her all of the indemnity benefits due through the date of the hearing and ruled that the carrier had paid the claimant the total amount of indemnity benefits and interest to which she was entitled as of the date of the hearing. The claimant appealed, asserting that the decision was against the great weight of the evidence and presenting additional documentation on what she believed was the amount owed to her by the carrier. The appeal file does not contain a response from the carrier.

DECISION

We reverse and remand.

The parties presented evidence in the hearing from which the hearing officer could determine the claimant's average weekly wage, the periods of disability, the date of maximum medical improvement, the claimant's impairment rating, and the amount and dates of indemnity and interest payments made to the claimant. With that information before him, the hearing officer could calculate the total indemnity payments due throughout the pendency of the claim and the total of payments made to the claimant. The hearing officer did not set out in his decision a calculation of the total indemnity payments due to the claimant for temporary income benefits or impairment income benefits but did find that the carrier had paid the claimant a total of \$40,265.41 in indemnity payments as of November 17, 2000.

The hearing officer did not indicate in his decision the manner in which he determined that the carrier had paid a total of \$40,265.41; however, it appears that the hearing officer simply accepted the totals from the carrier's most recent payment detail without question. The carrier's detail payment reports include payment notations that the "compensation" figures supplied to the hearing officer include payments made to the claimant for travel reimbursement for medical care (not an income benefit) and interest on accrued but unpaid benefits. Our review of the figures provided was hampered by the carrier's failure to identify the manner in which payments to the claimant were calculated, the types of payments made, the periods covered by the payments, what was included in each payment, and subtotals for each type of indemnity payment alleged to have been made by the carrier. Without that information, any attempt to calculate the amount of benefits due to the claimant, which would include interest on accrued but unpaid income benefits, and the amount actually paid by the carrier, is speculative. Without a clear understanding of what the carrier paid, the benefit for which each amount was paid, the interest the carrier was obligated to pay the claimant, and the amounts actually paid by the carrier for specific types of benefits, the hearing officer's decision in this matter cannot

stand. We, therefore, reverse the decision of the hearing officer and remand this matter back to him for the development of additional evidence.

On remand, the hearing officer should require the carrier to give a full, complete, and understandable accounting of indemnity payments made over the life of this claim. The hearing officer should require that the carrier set out, in detail, what was paid each week and how it was calculated. Those calculations should also include verification of any interest payments made pursuant to a Texas Workers' Compensation Commission (Commission) order and include the date of the order, the applicable interest rate, the amount of benefits accrued but unpaid as of the date of the order, and the total amount of interest due through the date of payment. If the carrier utilizes codes to identify payments or payment types, the hearing officer should require the carrier to identify each code and provide an explanation of what the code means.

On remand, the hearing officer should also specifically determine what benefits have been payable to the claimant, the period of any benefit, and the amounts of benefits which should have been paid for each period identified.

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.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge