

APPEAL NO. 011027
FILED JUNE 20, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 12, 2000; February 27, 2001; and April 19, 2001. The hearing officer determined in docket number that respondent (claimant) sustained a compensable aggravation injury on _____, and that he had disability from January 13, 2000, through April 19, 2001. In docket number, the hearing officer determined that claimant's _____, compensable low back injury is not a producing cause of his L3-4 disc bulging and spondylitic spurring, L4-5 disc protrusion/herniation, or L5-S1 disc bulging. Appellant (carrier B) appealed these determinations on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order. Respondent (carrier A) did not respond on appeal.

DECISION

We reverse and remand.

Carrier B contends the hearing officer erred in determining that claimant's _____, compensable low back injury is not a producing cause of his L3-4 disc bulging and spondylitic spurring, L4-5 disc protrusion/herniation, or L5-S1 disc bulging. We note that the September 24, 1998, MRI report written about one month after the _____, injury, indicates that claimant had L3-4 disc bulging and spondylitic spurring, L4-5 disc protrusion/herniation, and L5-S1 disc bulging. The 14% impairment rating, which apparently was certified for this 1998 injury, included impairment for specific disorders. Dr. M noted the results of the September 1998 MRI. The hearing officer did not explain his determination in Finding of Fact No. 8 that claimant's _____, compensable low back injury is not a producing cause of his L3-4 disc bulging and spondylitic spurring, L4-5 disc protrusion/herniation, or L5-S1 disc bulging. We note that there was evidence that claimant had other back injuries prior to 1998. However, given the 1998 MRI report, we must remand docket number to the hearing officer for reconsideration. Because we are remanding regarding this determination, we also remand docket number to the hearing officer and do not decide the appeal regarding those issues at this time. We emphasize that we do not intend to imply that the hearing officer must change his determinations on remand. We acknowledge that the issues before the hearing officer are fact issues. However, given the evidence before us, we feel we must remand for further findings so that we may adequately address the appeal.

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.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

DISSENTING OPINION:

If there is evidence to support the hearing officer's decision, the decision should be affirmed not remanded.

Robert E. Lang
Appeals Panel
Manager/Judge