

APPEAL NO. 011616
FILED AUGUST 23, 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 (CCH) was held on June 19, 2001. With regard to the issues before her, the hearing officer concluded that the appellant (claimant herein) suffered a compensable injury, but that the claimant did not have disability. The claimant appeals, challenging the hearing officer's determination that the claimant did not have disability as being contrary to the evidence. The claimant also points out that throughout the hearing officer's decision there is a typographical error as to the date of injury. The respondent (carrier herein) replies that there is sufficient evidence to support the hearing officer's resolution of the disability issue.

DECISION

Reversed and remanded.

This case is remanded for the sole purpose of obtaining compliance with HB2600, which amended Section 410.164, effective June 17, 2001. Section 410.164 was amended by the addition of subsection (c), which provides as follows:

At each [hearing], as applicable, the insurance carrier shall file with the hearing officer and shall deliver to the claimant a single document stating the true corporate name of the insurance carrier and the name and address of the insurance carrier's registered agent for service of process. The document is part of the record of the [hearing].

The procedure to be used for implementing the statutory amendment is contained in the June 19, 2001, Texas Workers' Compensation Commission (Commission) memorandum to hearing officers entitled "Required Insurance Carrier Information." We note that the folder forwarded to the Appeals Panel contains a document that purports to provide the necessary information. However, that document was not admitted in evidence as a hearing officer exhibit and is, therefore, not part of the record. In addition, there is no indication that a copy of the document was provided to the claimant as Section 410.164 requires. The document was in fact sent to the hearing officer by the carrier two days after the CCH by facsimile transmission which would further indicate that the claimant was probably unaware of its existence. No mention was ever made of the need for the information contained in the document at the CCH and the document was not marked and is not mentioned in the decision of the hearing officer. In the absence of evidence that the requirements of Section 410.164 have been satisfied in this instance, we must remand, despite the fact that it appears that the information concerning the true corporate name and the registered agent for service of process has been provided. On remand, the hearing officer must ensure that both the requirement that the information be made part of the record and the requirement that the information be delivered to the claimant are satisfied.

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, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Government Code in the computation of the 15-day appeal and response periods.

As to the date of injury, we note that the benefit review conference report and the evidence consistently reference a date of injury of _____, while the hearing officer's decision references a date of injury of _____. This appears to be a typographical error. However, since we are already remanding, we will leave it to the hearing officer to correct this rather than reform her decision.

The hearing officer's decision and order are reversed and remanded.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge