

APPEAL NO. 011677
FILED AUGUST 30, 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 20, 2001. With regard to the issues before her, the hearing officer determined the following:

1. The respondent/cross-appellant (claimant) did not have disability resulting from the injury sustained on _____, from June 11, 1999, through October 1, 1999.
2. The appellant/cross-respondent (carrier) is not allowed to adjust the claimant's post-injury weekly earnings because the employer did not make a bona fide offer of employment to the claimant.

The carrier appealed the hearing officer's determination, arguing that the employer did make a bona fide offer of employment to the claimant. The claimant cross-appealed the hearing officer's determinations, arguing that the hearing officer erred in requiring the claimant to testify regarding his disability and that the hearing officer erred in finding that the claimant had no disability from June 11, 1999, through October 1, 1999. The claimant filed a response to the carrier's appeal, urging affirmance of the hearing officer's determination regarding a bona fide offer of employment.

DECISION

Reversed and remanded.

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

- (c) At each [CCH], 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 [CCH].

The procedure for implementing the statutory amendment is in the June 19, 2001, Texas Workers' Compensation Commission (Commission) memorandum to hearing officers, entitled "Required Insurance Carrier Information."

The CCH was held on June 20, 2001, three days after the effective date of the amendment to Section 410.164 and one day after the hearing officers were sent the

memorandum entitled "Required Insurance Carrier Information." Consequently, the required information should have been placed in the decision and delivered to the claimant.

A rehearing on remand is required to obtain this information and admit it into the record. The hearing officer may reissue her original decision, as the Decision on Remand, with the added information, or she may incorporate by reference the original decision into a Decision on Remand, with the added information, requiring that the information be delivered to the claimant.

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 (amended June 17, 2001).

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge