

APPEAL NO. 020020
FILED FEBRUARY 27, 2002

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 November 20, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) was not entitled to have his statutory maximum medical improvement (MMI) date extended pursuant to Section 408.104 and that he abandoned medical treatment without good cause, justifying the suspension of temporary income benefits under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.4 (Rule 130.4) for the period of January 24 through March 20, 2000. The hearing officer further determined that the claimant did not have disability from March 24 through August 6, 2000. The claimant appealed on sufficiency grounds and argued that the ombudsman failed to introduce an additional medical record into evidence. The respondent (carrier) responded, urging affirmance.

DECISION

Because the tape recorded record of the CCH is not completely audible for our review, we reverse and remand.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The audiotape recording of the hearing was of such poor quality that neither the ombudsman's nor the claimant's statements were discernable. In the absence of a complete record, we cannot review the claimant's sufficiency of the evidence contentions. Accordingly, we remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

We also suggest that the hearing officer revisit his determination of the claimant's statutory MMI date, as the parties agreed that the date of statutory MMI is June 20, 2001.

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.

We reverse the hearing officer's decision and order and remand.

The true corporate name of the carrier is **LIBERTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge