

APPEAL NO. 020081  
FILED MARCH 6, 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 was held on December 20, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable occupational disease; that the date of injury is \_\_\_\_\_; that the claimant had disability beginning March 10, 2000, and continuing through the date of the hearing; that because the claimant received temporary income benefits (TIBs) relating to a separate compensable injury for that same period of time, he is not entitled to additional TIBs; and that the respondent (carrier) waived its right to contest compensability of the claim by not doing so in accordance with Section 409.021. On appeal, the claimant expresses disagreement with the disability eligibility determination. The appeal file contains no response from the carrier. Those determinations which have not been appealed have become final in accordance with Section 410.169.

DECISION

Affirmed as reformed.

The record reflects that on \_\_\_\_\_, the claimant sustained a compensable injury to his back, and as a result of the back injury, was unable to work from March 10, 2000, to May 9, 2001, at which time he reached maximum medical improvement. The claimant alleged that in addition to the back injury, he also sustained an occupational disease injury, affecting his upper extremities, with the same date of injury. The disputed issues in this case involve only the occupational disease injury; however, the determinations relating to the back injury are referenced as they have a significant impact on the claimant's disability eligibility in the present case.

The hearing officer determined that the claimant sustained a compensable occupational disease injury and had disability beginning March 10, 2000, and continuing through the date of the hearing. Additionally, the hearing officer found that because the claimant received TIBs for his claim involving his back injury from March 10, 2000, through May 9, 2000, he is not entitled to TIBs for that same time period for the occupational disease injury. We note that in the Conclusions of Law portion and the Decision paragraph of the hearing officer's decision, the ending date of the TIBs period for the back injury is May 9, 2000; this is clearly a typographical error as the evidence, and all other references in the decision to the ending date, reflect that the correct date is May 9, 2001. Therefore, the decision is reformed to reflect that the correct TIBs-ending date for the back injury is May 9, 2001.

We have previously noted that where two injuries can each be said to produce disability, and payment for each injury is due in an overlapping period, the amount of TIBs cannot exceed the maximum TIBs benefit payment. Texas Workers' Compensation Commission Appeal No. 941445, decided November 28, 1994. Consequently, we perceive

no error in the hearing officer specifically laying out the time periods for which the claimant is precluded from receiving TIBs for his occupational disease injury due to the fact that he received TIBs for the same period of time for his back injury. We find it necessary to reform the decision, however, because the typographical error in the ending date of TIBs for the back injury resulted in an erroneous disability determination for the occupational disease injury. Therefore, the hearing officer's decision is reformed to reflect that, due to the compensable occupational disease injury, the claimant had disability from March 10, 2000, through the date of the hearing, and is eligible for TIBs beginning May 10, 2001 (the date on which TIBs expired for the compensable back injury), through the date of the hearing.

The true corporate name of the carrier is **ST. PAUL MERCURY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

---

Chris Cowan  
Appeals Judge

CONCUR:

---

Susan M. Kelley  
Appeals Judge

---

Robert W. Potts  
Appeals Judge