

APPEAL NO. 031940
FILED SEPTEMBER 11, 2003

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 March 20, 2003. The hearing officer determined that (1) the appellant's (claimant) compensable injury of _____, does not extend to include depressive or anxiety disorder; (2) the claimant's date of maximum medical improvement (MMI) is March 28, 2002; and (3) the claimant's impairment rating (IR) is zero percent, as certified by the designated doctor appointed by the Texas Workers' Compensation Commission. In Texas Workers' Compensation Commission Appeal No. 030966, decided May 27, 2003, we reversed and remanded the hearing officer's decision for further consideration of the evidence with regard to the extent of injury. Given our reversal of the extent-of-injury determination, we likewise reversed and remanded the hearing officer's MMI/IR determinations, stating that "the hearing officer may seek clarification of the designated doctor's certification for depression and/or anxiety, if necessary." On remand, the hearing officer determined that (1) the compensable injury of _____, does not extend to include depressive or anxiety disorder; and (2) the claimant's MMI and IR cannot be determined from the evidence and a second designated doctor should be appointed. The appellant (carrier) appealed the MMI/IR determination, essentially asserting that such determination was beyond the scope of the remand. The claimant did not file a response. The hearing officer's extent-of-injury determination was not appealed, on remand, and has become final. Section 410.169.

DECISION

Reversed and rendered.

The hearing officer erred in reconsidering the issues of MMI and IR, in the absence of a determination that the compensable injury extended to include depression and anxiety disorder. In Appeal No. 030966, we reversed and remanded the extent of injury determination for further consideration of the evidence in accordance with our decision. Given our reversal of the extent-of-injury determination, we likewise reversed and remanded the hearing officer's MMI/IR determinations, stating that "the hearing officer may seek clarification of the designated doctor's certification for depression and/or anxiety, if necessary." To be clear, the issues of MMI and IR were remanded for further consideration, if it was determined that the compensable injury extended to include depression and anxiety disorder. Because the hearing officer again determined that the compensable injury did not extend to include depression and anxiety disorder, any further consideration of MMI and IR was beyond the scope of the remand. See *generally*, Texas Workers' Compensation Commission Appeal No. 962637, decided February 10, 1997. Accordingly, we reverse the hearing officer's MMI/IR determination, on remand, and render a decision consistent with the hearing officer's original determination that the claimant reached MMI on March 28, 2002, with a zero percent IR.

The hearing officer's decision and order is reversed and rendered, consistent with our decision above.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

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

Edward Vilano
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge