

APPEAL NO. 032074
FILED SEPTEMBER 18, 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 June 27, 2003. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, extends to include the disc bulge at L4-5; that the respondent (carrier) did not waive its right to contest compensability of the claimed disc bulge; that the claimant had disability "beginning on August 31, 2002 and continuing through February 28, 2003"; that the claimant reached maximum medical improvement (MMI) on February 28, 2003; and that the claimant's impairment rating (IR) is 18%. In his appeal, the claimant contends that the hearing officer made a clerical error in her decision in listing the claimant's dates of disability. In its response to the claimant's appeal, the carrier urges affirmance. The claimant did not appeal the hearing officer's carrier waiver determination and the carrier did not appeal the determinations that the claimant's compensable injury includes the disc bulge at L4-5, and that the claimant reached MMI on February 28, 2003, with an IR of 18% as certified by the designated doctor selected by the Texas Workers' Compensation Commission in his amended report. Accordingly, the carrier waiver, extent of injury, MMI, and IR determinations have become final. Section 410.169.

DECISION

Affirmed, as modified.

The disability issue at the hearing was phrased in terms of whether the claimant had disability as a result of the _____, compensable injury from August 31, 2001, through February 28, 2003. In his initial report, the designated doctor had certified that the claimant reached MMI on August 30, 2001, and the carrier apparently did not dispute that the claimant had disability through that date, but took the position that the claimant was not entitled to further temporary income benefits after the August 30, 2001, date of MMI. August 30, 2002, is not a date with any significance in this case. Thus, it appears that, as the claimant argues, the hearing officer intended to find that the claimant had disability from August 31, 2001, through February 28, 2003, in accordance with the dates identified in the issue. However, the hearing officer noted in Finding of Fact No. 4 that there was a prior decision and order in this case, which was not appealed, where it was determined that the claimant sustained a compensable low back injury on _____, and had disability from February 24, 2001, through the date of the prior hearing, December 28, 2001. Thus, only the question of whether the claimant had disability from December 29, 2001, through February 28, 2003, remained unresolved at the hearing. Accordingly, we modify the hearing officer's decision to properly reflect that the claimant had disability for the only remaining period at issue. Specifically, we modify Conclusion of Law No. 5 and the decision section to state that the claimant had disability as a result of the _____, compensable injury from December 29, 2001, through February 28, 2003.

As so modified, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge