

APPEAL NO. 032637
FILED NOVEMBER 19, 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 (CCH) was held on September 3, 2003. The hearing officer determined the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters. The claimant appeals the hearing officer's determination with regard to 9th quarter SIBs, on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Because a complete record of the hearing is not available for our review, we reverse and remand.

Section 410.203(a)(1) requires that the Appeals Panel consider the record developed at the hearing. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The CCH was recorded by audiotape recording and there was no court reporter. The audiotape recording of the hearing is, at times, inaudible and prevents a full review of the record. In the absence of a complete record, we cannot review the claimant's sufficiency of the evidence contentions. Accordingly, we must remand for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996. The hearing officer may avoid the need to recall the witnesses for further testimony if the audio recording of the proceeding can be sufficiently enhanced or transcribed.

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 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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

**JAMES H. MOODY II
901 MAIN STREET
DALLAS, TEXAS 75202.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge