

APPEAL NO. 042201  
FILED OCTOBER 25, 2004

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 July 21, 2004. The hearing officer resolved the disputed issues by deciding that the decedent's death was not a result of the \_\_\_\_\_, compensable injury and that the respondent (carrier) did not waive the right to contest compensability of the claimed injury by not timely contesting the decedent's death in accordance with Sections 409.021 and 409.022. The appellant (claimant beneficiary) appealed, arguing that "[t]he evidence establishes as a matter of law that the Carrier waived the right to contest compensability of the claimed injury by not timely contesting the deceased's death in accordance with. . . Sections 409.021 and 409.022," and that the overwhelming preponderance of the evidence establishes that the decedent's death was the result of use of prescription medication related to the \_\_\_\_\_, compensable injury. The carrier responded, urging affirmance. The carrier contends that both the testimony and documentary evidence presented at the CCH support the hearing officer's determinations.

DECISION

Reversed and remanded.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the hearing. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The hearing was recorded on two audiotapes. However, only the second audiotape was included in the file forwarded for review. Accordingly, we remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL RAY OLIVER, PRESIDENT  
221 WEST 6TH STREET, SUITE 300  
AUSTIN, TEXAS 78701.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge