

APPEAL NO. 050926  
FILED JUNE 9, 2005

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 March 17, 2005. The hearing officer resolved the two disputed issues by deciding that the appellant (claimant) is not entitled to change treating doctors to (Dr. B) pursuant to Section 408.022, and that the claimant had disability from May 10, 2004, and continuing through November 17, 2004, and at no other times. The claimant appeals the hearing officer's determinations on both disputed issues. No response was received from the respondent (self-insured).

DECISION

We reverse the hearing officer's decision and remand for reconstruction of the CCH record.

Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. The CCH record in this case consists of two compact discs (CD) and exhibits. CD 1 contains much static, but the testimony can be heard with effort. CD 1 contains testimony from the nurse/case manager, the adjustor, and the claimant. The claimant was the third witness. CD 2 contains testimony from (ET). The problem with the record is that just after cross-examination of the claimant began on CD 1, the hearing officer stated that he was going off the record for a second and the recording of the testimony stopped. CD 2 begins at the very end of the direct examination of ET. The CCH record does not contain the full cross-examination of the claimant. If any redirect or recross examination of the claimant was done, that also is not in the CCH record. Most of the direct examination of ET is missing from the CCH record. The hearing officer noted in his decision that (Dr. T) testified telephonically, but his testimony is not recorded on the CD's. We do not know if any other witness' testimony is missing between where the claimant's testimony stops on CD 1 and ET's testimony begins on CD 2. Consequently, due to the incomplete CCH record, we must remand for reconstruction of the CCH record. In addition, on remand the hearing officer should confirm with the self-insured that its registered agent for service of process is the entity named in Hearing Officer's Exhibit No. 2 and Finding of Fact No. 2 because it does not look right.

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, as amended effective June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas

Government Code in the computation of time in which a request for appeal or a response must be filed.

According to information provided by the self-insured, the true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge