

APPEAL NO. 060934
FILED JUNE 22, 2006

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 December 5, 2005, with the record closing on December 14, 2005. The issue at the hearing was:

Did the first certification of maximum medical improvement [MMI] and assigned impairment rating [IR] from [Dr. S], dated October 28, 2004. with a 0% [IR] become final under Texas Labor Code Section 408.123?

The hearing officer determined that the "first certification did not become final because of inadequate treatment for the compensable injury." The Appeals Panel in Appeals Panel Decision 060132, decided March 10, 2006, reversed the hearing officer's determination that the first certification did not become final because of inadequate treatment as not supported by the evidence but noted that the respondent (claimant) at the CCH had proceeded on dual theories of exceptions of not only inadequate treatment but also on the basis of "an undiagnosed medical condition" or clearly mistaken diagnosis under Section 408.123(f)(1)(B). The Appeals Panel remanded the case for the hearing officer to make findings and a determination on the clearly mistaken diagnosis or a previously undiagnosed medical condition exception of Section 408.123(f)(1)(B).

The hearing officer in a Decision and Order on Remand commented that no additional hearing was held, determined that the claimant failed to show that she suffered from a previously undiagnosed medical condition or that there was a clearly mistaken diagnosis and entered a decision that the "first certification of MMI became final because it was not disputed within 90 days."

The appellant (carrier) appealed, requesting the issuance of an Order Nunc Pro Tunc to correct a clerical error because the hearing officer failed to include the IR becoming final because it was not disputed within 90 days. The file does not contain a response from the claimant.

DECISION

Reversed and a new decision rendered.

We reverse the hearing officer's decision that the first certification of MMI became final because it was not disputed within 90 days because the decision did not address the entire issue. We render a new decision that the first certification of MMI and assigned IR from Dr. S dated October 28, 2004, with a 0% IR became final under Section 408.123.

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

**TREVA DURHAM
1000 HERITAGE CENTER CIRCLE
ROUND ROCK, TEXAS 78664-4463.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge