

APPEAL NO. 061344  
FILED JULY 31, 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 was held on June 1, 2006. The issue announced from the benefit review conference, and agreed upon by the parties, was:

Does the compensable injury sustained on \_\_\_\_\_, extend to and include the cervical spine, thoracic spine and left shoulder?

However the issue, as recited in the hearing officer's decision and order, was only whether the compensable injury extended to and included an injury to the cervical spine. With regard to the issue, the hearing officer determined that the "compensable injury sustained on \_\_\_\_\_, does not extend to or include injury to the cervical spine."

The appellant (carrier) appealed, contending that the hearing officer's decision does "not cover the entire issue" because the hearing officer failed to make findings regarding the thoracic spine and left shoulder. The file does not contain either an appeal or a response from the respondent (claimant). The hearing officer's determination that the compensable injury does not extend to or include the cervical spine has not been appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The issue as announced by the hearing officer, and agreed to by the parties, was whether the compensable (low back) injury extended to and included the cervical spine, the thoracic spine and the left shoulder. The hearing officer, in his background discussion and findings, only addressed the compensable low back injury and the claimed cervical spine injury. A review of the record indicates that the claimant in opening, presentation of evidence and closing, asserted that the compensable injury included the thoracic spine, sometimes also referred to as the upper or mid back, and the left shoulder. The carrier defended the claim on the basis that the claimed thoracic spine and left shoulder conditions were first mentioned some months after the date of the compensable injury and cited other conflicting evidence.

The hearing officer erred in failing to address the claimed thoracic spine and left shoulder injuries. Accordingly, we reverse the hearing officer's decision as being incomplete and remand the case for the hearing officer to consider and make findings on the claimed thoracic spine and left shoulder injuries. No additional evidence is required. The hearing officer at his discretion may allow additional oral or written comment on the remanded issue regarding the thoracic spine and left shoulder.

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 Division, 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 Appeals Panel Decision 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

**MR. RUSSELL OLIVER, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge