

APPEAL NO. 061775
FILED OCTOBER 4, 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 August 1, 2006. The hearing officer determined that the respondent's (claimant) date of maximum medical improvement (MMI) is February 17, 2003, and the impairment rating (IR) is 20% as assigned by the designated doctor.

The appellant (carrier) appeals on a number of grounds, contending that the MMI date should be October 21, 2002, that the 20% IR is based solely on multi-level spinal fusion surgery which occurred after the claimant would have reached statutory MMI (Section 401.011(30)(B)) and that 28 TEX. ADMIN. CODE § 130.1(c)(3) (Rule 130.1(c)(3)) requires that an IR be based on the claimant's condition as of the date of MMI. The claimant responds, urging affirmance of the February 17, 2003, MMI date and 20% IR.

DECISION

Reversed and remanded 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 was recorded on two compact discs (CD). The first CD indicates over 79 minutes of recording and the second CD indicates over 18 minutes of recording. However, neither CD has any sound. The file indicates that there was no court reporter and the file does not contain a transcript. Consequently, we must remand the case to the hearing officer for reconstruction of the CCH record.

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 Department of Insurance, Division of Workers' Compensation, 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 **NATIONAL AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge