

APPEAL NO. 062446  
FILED JANUARY 18, 2007

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 November 3, 2006. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) compensable injury does not include protrusion and bulges at C3-4, C4-5, C5-6, and C6-7. The claimant appeals, disputing the extent of injury finding and contending that the hearing officer "failed to properly characterize the issue in his Decision and Order." The claimant requests that the case be remanded to require the hearing officer to make findings on an extent-of-injury issue regarding the lumbar spine. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed in part and reversed and remanded in part.

It is undisputed that the claimant sustained a compensable injury on \_\_\_\_\_. We conclude that the hearing officer's determination against the claimant that the compensable injury sustained on \_\_\_\_\_, does not extend to and include protrusion and bulges at C3-4, C4-5, C5-6, and C6-7 is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The following issue was identified as the disputed issue in the Benefit Review Conference Report: "Does the compensable injury of \_\_\_\_\_, include a cervical protrusion and bulges at the C3/C4, C4/C5, C5/C6, and lumbar stenosis with radicular symptoms?"<sup>1</sup> The parties agreed to modify the issue at the CCH. A MRI report of the claimant's lumbar spine dated October 14, 2005, was in evidence. The following impressions were contained in the lumbar MRI report: 1. at L3-4 there is flattening of the thecal sac without foraminal encroachment; 2. at L4-5 flattening of the thecal sac is noted with facet joint arthrosis and mild bilateral foraminal narrowing; and 3. at L5-S1 bilateral facet joint arthrosis is identified without foraminal encroachment or nerve root impingement. After discussion, the hearing officer proposed to "restate the second half of the issue as: Does the compensable injury include the three items listed on the impression in Claimant's Exhibit 6, page 1, the lumbar MRI?" Both parties agreed to the modification. The hearing officer failed to make findings on whether the compensable injury extends to include the conditions listed on the claimant's lumbar MRI.

The hearing officer erred in failing to address whether the compensable injury extends to include flattening of the thecal sac without foraminal encroachment at L3-4; flattening of the thecal sac with facet joint arthrosis and mild bilateral foraminal

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<sup>1</sup> We note that it is undisputed that the C6-7 level of the cervical spine was part of the disputed issue at the CCH.

narrowing at L4-5; and bilateral facet joint arthrosis without foraminal encroachment or nerve root impingement at L5-S1. 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 lumbar conditions. No additional evidence is required.

We affirm the hearing officer's determination that the claimant's compensable injury of \_\_\_\_\_, does not include protrusion and bulges at C3-4, C4-5, C5-6, and C6-7.

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 **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**EG  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Cynthia A. Brown  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge