

APPEAL NO. 070514
FILED MAY 1, 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 February 26, 2007. The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, does extend to include a L5-S1 disc protrusion but does not extend to include an inguinal hernia. The appellant (carrier) has appealed, arguing that it has just determined that it is not the proper carrier. The respondent (claimant) responded, stating he agrees that the correct carrier should be liable for the payment of compensation for his claim.

DECISION

Reversed and remanded.

In its appeal, the carrier asserts that although "no one on the carrier's side" noticed earlier, it is not the proper carrier for the claimant's worker's compensation claim. The carrier did not include evidence with its appeal to support its assertion. In Houston Gen. Ins. Co. v. Association Cas. Ins. Co., 977 S.W.2d 634 (Tex. App.-Tyler 1998, no writ), the Tyler Court of Appeals held that workers' compensation coverage may not be extended by waiver or estoppel. This case is similar to Appeals Panel Decision 042725, decided December 15, 2004, where information was sent to the Texas Department of Insurance, Division of Workers' Compensation (Division) after the CCH, advising that the carrier did not have coverage. Because of the uncertainty as to the identity of the proper carrier in this case, we remand the case to the hearing officer to determine the proper carrier, and, if it is a carrier other than the carrier that was present at the CCH, to hold another hearing with the proper carrier present. On remand, the hearing officer shall take official notice of the Division records regarding the proper carrier in this case. The parties should be allowed an opportunity to present evidence as to the correct carrier in this proceeding.

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, 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 the information provided by the carrier at the CCH, the true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge