

APPEAL NO. 080103
FILED MARCH 26, 2008

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 11, 2007. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) _____, injury includes lumbar disc pathology at L4 through S1. The appellant (carrier) appeals, disputing the extent-of-injury determination. The claimant responded, urging affirmance.

DECISION

Reversed and remanded.

The parties agreed and the evidence reflects that the issue reported out of the benefit review conference was as follows: "Does the compensable injury of _____, extend to include herniated nucleus pulposus of the lumbar spine and lumbar disc pathology at L4 through S1 after (subsequent date of injury)?" In its appeal, the carrier contends that the hearing officer modified the issue after the hearing. The parties did not request or agree to modify the issue at the CCH. In the discussion of the evidence, the hearing officer stated that "the medical evidence in the administrative record does not contain a medical diagnosis of 'herniated nucleus pulposus of the lumbar spine' and the hearing officer believes that matter was not properly certified." We note that there is a medical record in evidence dated February 26, 2007, from a designated doctor in which the claimant is diagnosed with herniated nucleus pulposus at L4-5.

The carrier correctly points out that the hearing officer's decision does not mention the words "after (subsequent date of injury)." The carrier contends that the hearing officer's determination failed to take into account the effect of the claimant's subsequent injury of (subsequent date of injury). The hearing officer erred by failing to make a determination on the issue as certified at the benefit review conference for determination at the CCH. We reverse the hearing officer's decision as being incomplete and remand back to the hearing officer to fully address the certified issue before him.

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 060721, decided June 12, 2006.

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

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge