

APPEAL NO. 090352
FILED MAY 13, 2009

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 18, 2009, with the record closing on March 4, 2009, in order for a 10-day letter to be sent to respondent 1 (claimant). The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, extends to include the diagnoses of left knee chondromalacia into the trochlea and patella, and osteochondral defect of the lateral femoral condyle.

The appellant (carrier) appealed the hearing officer's extent-of-injury determination. Respondent 2 (subclaimant) responded, urging affirmance. The appeal file does not contain a response from the claimant.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The CCH was recorded on two compact discs (CDs). The first CD indicated it contained 1 tract which was 1 hour 14 minutes and 51 seconds in length. The second CD indicated it contained 1 tract which was 8 minutes and 45 seconds in length. However, both CDs are completely inaudible. The file does not contain a transcript or a tape recording of the CCH proceeding. Consequently, we reverse and remand this case to the hearing officer for reconstruction of the CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

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 APD 060721, decided June 12, 2006.

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

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge