

APPEAL NO. 090778
FILED AUGUST 5, 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 May 7, 2009¹. The hearing officer determined that: (1) the _____, compensable injury does not extend to a closed head injury, intracranial hemorrhage, respiratory failure, and a stroke (CVA), and (2) the employee's (decedent) death was not the result of the compensable injury sustained on _____. The appellants (claimant beneficiaries) appealed the hearing officer's injury and extent-of-injury determinations. Respondent 1 (carrier) responded, urging affirmance. The appeal file does not contain a response from respondent 2 (subclaimant).

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 (CD). The first CD contains 1 track, for a total time of 6 seconds, in which the hearing officer states "testing 1, 2, testing 1, 2." There is no other sound on the first CD. The second CD contains 42 tracks, for an approximate total time of 41 minutes and 18 seconds. At the beginning of the second CD the hearing officer states that they are back on the record and are preceding with the testimony of (Dr. S). The appeal file does not indicate that a court reporter was present and the file does not contain a transcript or other recording of the proceeding. Consequently, we remand the case 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 060721, decided June 12, 2006.

¹ We note that the hearing officer's decision incorrectly states that the date of the CCH was May 7, 2007.

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 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge