

APPEAL NO. 091075
FILED AUGUST 31, 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 June 29, 2009. Regarding the only issue before her the hearing officer determined that the respondent/cross-appellant's (claimant) impairment rating (IR) is 18%.

The appellant/cross-respondent (carrier) appeals contending that the IR should be 12% as assessed by the designated doctor excluding a bilateral hip rating. The claimant appeals contending that the IR should be 25% as assessed by the treating doctor using an impairment for gait derangement. The claimant responds to the carrier's appeal. The appeal file does not contain a response from the carrier.

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 one 90-minute audiotape covering about 40 minutes. The introductory and preliminary matters to include admission of exhibits was clear and audible. Beginning at counter 158 the recording became very faint and with background noise was inaudible. All of the testimony was inaudible. The closing statements beginning at counter 416 through the end of the tape at counter 568 were fairly audible. 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. 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 R. OLIVER, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge