

APPEAL NO. 100352  
FILED MAY 13, 2010

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, 2010. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is 5%, that the Texas Department of Insurance, Division of Workers' Compensation (Division) did not abuse its discretion in sending a letter of clarification (LOC) allegedly containing an inappropriate question provided by the claimant's attorney, and that the Division did not abuse its discretion by the benefit review officer sending a LOC to the designated doctor at the request of the respondent (carrier).

The claimant principally appealed the hearing officer's determination that the claimant's IR is 5%, contending that the claimant's IR should be 15% based on a LOC.

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 compact disc (CD). The CD indicated it contained one track which was approximately one hour and eight minutes in length. The CD has only a hum and is completely inaudible. The file indicates that there was no court reporter and 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 Division, 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 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 **ZENITH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES H. MOODY III**  
**2001 BRYAN STREET, SUITE 1800**  
**DALLAS, TEXAS 75201-3070.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge