

APPEAL NO. 100512  
FILED JUNE 3, 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 March 24, 2010. The sole disputed issue before the hearing officer was:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the appellant (claimant) is not entitled to a lumbar laminectomy with fusion and instrumentation at L4-5 and L5-S1 and a thoracic-lumbar-sacral orthosis back brace for the compensable injury of \_\_\_\_\_?

The hearing officer determined that the preponderance of the evidence is not contrary to the decision of the IRO that the claimant is not entitled to a lumbar laminectomy with fusion and instrumentation at L4-5 and L5-S1 and a thoracic-lumbar-sacral orthosis back brace for the compensable injury of \_\_\_\_\_. The claimant appealed the hearing officer's determination based on sufficiency of the evidence. The respondent (self-insured) responded, urging affirmance.

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 appeal file contains one compact disc (CD). The CD is approximately 47 minutes and 18 seconds long but has no sound. The appeal file does not indicate a court reporter was present and the file does not contain a transcript or other recording. Consequently, we remand the case for reconstruction of the CCH record. See Appeals Panel Decision (APD) 100365, decided April 27, 2010.

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 **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**(NAME)**  
**(ADDRESS)**  
**(CITY), TEXAS (ZIP CODE).**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge