

APPEAL NO. 100538
FILED JUNE 28, 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 was held on April 12, 2010. The hearing officer resolved the sole issue by deciding that the compensable injury of _____, extends to osteoarthritis of the right hip. The appellant (self-insured) appealed, disputing the extent-of-injury determination. The respondent (claimant) responded, urging affirmance.

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that he sustained an injury in a motor vehicle accident on _____. (Dr. T) opined in a medical record dated July 16, 2008, that "the injury to the right knee and impact of this injury transmitted to the right hip in the accident in 2003 most likely has caused a injury to the head of femur and acetabulum which has lead during the past 4 or so years to the development of a septic necrosis of the head of the femur and osteoarthritis of the hip." In evidence is a CT of the claimant's pelvis dated July 3, 2008, which gives as an impression severe right hip osteoarthritis, perhaps in part post-traumatic etiology.

The hearing officer found that (Dr. B) was appointed as the designated doctor by the Texas Department of Insurance, Division of Workers' Compensation (Division) to determine the extent of the claimant's injury. In evidence is a letter (EES-14) dated February 25, 2009, appointing Dr. B as the designated doctor to determine the extent of the claimant's injury. In his narrative report dated March 9, 2009, Dr. B noted that the purpose of his examination was to determine the extent of the claimant's compensable injury and to "confirm that the osteoarthritis in the right hip was caused by the on the job accident of _____." Dr. B noted that the claimant began having right hip pain around 2006 and that Dr. T opined that the claimant's right hip osteoarthritis is post-traumatic and related to the _____, injury. Dr. B noted the following:

It would appear from the [claimant's] history and physical findings that the osteonecrosis/chondronecrosis of the right hip is a result of injuries occurring on _____. The history and physical findings, development of osteonecrosis following trauma is well known. The [claimant] has a right knee impact against a firm object lacerating the right knee area. It is within the reasonable medical probability that the force of impact projecting up the femur into the hip, acetabulum, and pelvis on a more probable than not basis has caused the development of the chondronecrosis/osteonecrosis of the right hip.

Although he noted that a purpose of the examination was to determine whether or not the claimant's osteoarthritis in the right hip was caused by the on the job accident of _____, Dr. B did not specifically address this issue; Dr. B's opinion regarding the extent of the claimant's injury discusses osteonecrosis/chondronecrosis. The hearing officer found that Dr. B determined that the claimant's right hip condition is a result of the compensable injury and that Dr. B's determination as to extent of injury is not contrary to the preponderance of the evidence. The hearing officer bases his determination of the extent of injury on Dr. B's opinion. However, Dr. B does not give an opinion specifically discussing whether or not the osteoarthritis of the right hip is part of the compensable injury. Therefore, we reverse the hearing officer's determination that the compensable injury of _____, extends to osteoarthritis of the right hip and remand this case to the hearing officer. On remand, the hearing officer should determine whether Dr. B is still qualified and available to be the designated doctor, and if so, request that Dr. B specifically address whether or not in his opinion the compensable injury of _____, extends to osteoarthritis of the right hip. The hearing officer is to provide the designated doctor's response to the parties and allow the parties an opportunity to respond and then make a determination regarding whether or not the compensable injury of _____, extends to osteoarthritis of the right hip.

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 the computation of the 15-day appeal and response periods. See Appeals Panel Decision 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

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

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge