

APPEAL NO. 100910
FILED SEPTEMBER 8, 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 June 10, 2010. The issues listed in the benefit review conference report, announced by the hearing officer at the CCH, and agreed upon by the parties were:

1. Does the _____, compensable injury extend to and include left shoulder A/C separation, brachial neuritis, rotator cuff syndrome, shoulder bursitis, and cervical strain?
2. Does the respondent/cross-appellant (claimant) have disability resulting from an injury sustained on _____, from February 7, 2010, through the present?

The hearing officer determined that: (1) the _____, compensable injury includes a cervical strain; and (2) the _____, compensable injury does not include left shoulder A/C separation, brachial neuritis, rotator cuff syndrome, and shoulder bursitis. The appellant/cross-respondent (carrier) appeals the hearing officer's determination on extent of injury adverse to the carrier, and notes that although the hearing officer addressed the disability issue in the Background Information section of her decision, the hearing officer failed to make findings of fact, conclusions of law, and a decision on that issue. The claimant responds, urging affirmance. The claimant appeals the hearing officer's extent-of-injury determinations that are adverse to the claimant. The claimant also notes the lack of findings of fact, conclusions of law, and a decision on the disability issue.

DECISION

Affirmed in part and reversed and remanded in part.

EXTENT OF INJURY

The hearing officer's determination that the claimant's compensable injury includes a cervical strain but does not include left shoulder A/C separation, brachial neuritis, rotator cuff syndrome, and shoulder bursitis is supported by sufficient evidence and is affirmed.

DISABILITY

Although the hearing officer addressed the disability issue in the Background Information section of her decision, the hearing officer failed to make findings of fact, conclusions of law, and a decision regarding the disability issue. The hearing officer erred in failing to fully address whether the claimant sustained disability from February 7

through June 10, 2010, the date of the CCH. Accordingly, we reverse the hearing officer's decision as being incomplete and we remand the case for the hearing officer to consider and make findings of fact, conclusions of law, and a decision on the claimed period of disability. No additional evidence is required.

SUMMARY

We affirm the hearing officer's determination that the claimant's compensable injury includes a cervical strain but does not include left shoulder A/C separation, brachial neuritis, rotator cuff syndrome, and shoulder bursitis.

We reverse and remand this case for the hearing officer to make a determination on the issue of whether the claimant had disability from February 7 through June 10, 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 Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **HARTFORD INSURANCE COMPANY OF THE MIDWEST** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3232.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge