

APPEAL NO. 101909
FILED FEBRUARY 28, 2011

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 November 17, 2010. The hearing officer determined that the compensable injury of _____, does not extend to chronic reactive depression. The appellant (carrier) filed an appeal alleging the hearing officer failed to address all of the issues presented at the CCH. Specifically, the carrier contends the hearing officer granted its motion to add the issues of the respondent's (claimant) maximum medical improvement (MMI) and impairment rating (IR). The file contains no response from the claimant. The hearing officer's determination that the compensable injury of _____, does not extend to chronic reactive depression has not been appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

In her decision and order, the hearing officer listed the sole issue to be determined at the CCH as whether the compensable injury of _____, extends to chronic reactive depression, and made findings of fact, conclusions of law, and a decision on the extent-of-injury issue. However, a review of the record in this case establishes that the hearing officer granted a motion made by the carrier to add the issues of MMI and IR, and that both the carrier and the claimant agreed on the record that the issues to be determined at the CCH were extent of injury, MMI, and IR.

The hearing officer failed to make any reference, findings of fact, conclusions of law, or a decision in the decision and order regarding the MMI and IR issues. Therefore, the hearing officer erred in failing to fully address all of the issues presented at 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 MMI and IR issues.

A review of the record shows that (Dr. C) is the designated doctor appointed to determine MMI and IR. On remand the hearing officer is to determine if Dr. C is still qualified and available to be the designated doctor on those issues. If Dr. C is no longer qualified and available to serve as the designated doctor, then another designated doctor is to be appointed pursuant to 28 TEX. ADMIN. CODE § 126.7(h) (Rule 126.7(h)).¹

¹ We note that the Texas Department of Insurance, Division of Workers' Compensation (Division) has adopted new rules concerning designated doctor scheduling and examinations effective February 1, 2011. The pertinent part of Rule 126.7(h) cited above is provided in the new Rule 127.5(d).

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 **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge