

APPEAL NO. 110036
FILED MARCH 10, 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 December 6, 2010. With regard to the disputed issues the hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on March 27, 2009, with a five percent impairment rating (IR) and that the claimant "did not have disability at any time beginning March 22, 2009, through August 4, 2010."

The claimant appealed, contending that the designated doctor's report does not comply with the Texas Department of Insurance, Division of Workers' Compensation rules; that the correct certification of MMI and IR is that of the treating doctor; and that the hearing officer altered the period of disability in dispute. The respondent (carrier) responded, urging affirmance but arguing that the hearing officer improperly "amended" the period of disability saying it is no doubt a typographical error.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on _____. The evidence reflects that the claimant was in a motor vehicle accident on _____, and sustained injuries to her back. The parties also stipulated that (Dr. B) was the designated doctor to determine MMI and IR.

MMI AND IR

The hearing officer's determination that the claimant reached MMI on March 27, 2009, and has a five percent IR as certified by the designated doctor is supported by the evidence and is affirmed.

DISABILITY

The issue initially reported from the benefit review conference was, did the claimant have disability "from March 27, 2009, through August 4, 2010." The hearing officer notes that at the CCH the disability issue was amended by agreement of the parties to read: "Did the [c]laimant have disability resulting from a compensable injury beginning May 22, 2009, through August 4, 2010?" The hearing officer nonetheless determined in a finding of fact, a conclusion of law and the decision portion of the decision and order that the claimant did not have disability at any time beginning March 22, 2009, through August 4, 2010. As previously noted, both parties pointed out the incorrect dates the hearing officer used.

The hearing officer, in the Background Information portion of his decision points out conflicting evidence of disability on various Texas Workers' Compensation Work Status Report (DWC-73) forms in reaching his conclusion that the claimant did not sustain any disability. However, the hearing officer confused the beginning date of the specific period of disability at issue which was May 22, 2009, by determining that the claimant did not have disability beginning March 22, 2009, through August 4, 2010.

Accordingly, we reverse that portion of the hearing officer's determination of no disability from March 22, 2009, to May 22, 2009, as exceeding the scope of the issue before him and render a new decision by striking any reference to disability for the period of March 22, 2009, to May 22, 2009. We affirm that portion of the hearing officer's decision that holds the claimant did not have disability beginning May 22, 2009, through August 4, 2010.

The true corporate name of the insurance carrier is **TRAVELERS PROPERTY CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
D/B/A CSC-LAWYERS INCORPORATING SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Carisa Space-Beam
Appeals Judge