

APPEAL NO. 110432
FILED JUNE 9, 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 was held on February 23, 2011. Regarding the sole issue before him, the hearing officer determined that the compensable injury of _____, extends to right carpal tunnel syndrome (CTS) and complex regional pain syndrome (CRPS)/reflex sympathetic dystrophy (RSD) of the right upper extremity. The appellant (self-insured) appeals the hearing officer's determination. The appeal file does not contain a response from the respondent (claimant).

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on _____, and that the compensable injury includes a right wrist and right arm strain. The claimant testified he sustained the compensable injury when he slipped and fell at work landing on his right hand.

Section 408.0041(a)(3) provides that at the request of the insurance carrier or an employee, or on the commissioner's own order, the commissioner may order a medical examination to resolve any question about the extent of the employee's compensable injury. 28 TEX. ADMIN. CODE § 126.7(c)(3) (Rule 126.7(c)(3)) provides, in part, that a designated doctor examination shall be used to resolve the question about the extent of the compensable injury. *See also* Rule 126.7(i)(1), discussing the medical records and analyses required to be provided to the designated doctor. Rule 126.7(w) provides that Rule 126.7 is effective on January 1, 2007, and a request for a designated doctor under Rule 126.7 may be made on or after January 1, 2007.¹

The Division appointed (Dr. W) to determine the claimant's extent of injury. Dr. W examined the claimant on February 15, 2010. In his narrative report of that date, Dr. W stated:

The examinee had requested the designated doctor evaluation to determine the extent of his compensable injury. Unfortunately, the insurance adjustor had called the office and cancelled the exam. As a result of this, we did not obtain all of his records, so we have limited records available for his review.

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(c) and (i) cited above are provided in the new Rule 127.1(a) and new Rule 127.10(a); however, the applicable rule in this case is Rule 126.7.

It is clear from Dr. W's narrative report that he did not have all of the claimant's medical records as required by Rule 126.7(i) when he determined the extent of the compensable injury. See Appeals Panel Decision (APD) 071721, decided November 19, 2007. Accordingly, we reverse the hearing officer's determination that the claimant's compensable injury extends to right CTS and CRPS/RSD of the right upper extremity and remand the extent-of-injury issue to the hearing officer for consideration of all the evidence and for further proceedings consistent with this decision.

On remand the hearing officer shall cause to be forwarded to Dr. W copies of all the claimant's medical records relating to the medical condition to be evaluated that have not previously been provided to Dr. W, and to instruct Dr. W to consider all of the medical records in making his extent of injury opinion. The hearing officer is to provide Dr. W's response to the parties and allow the parties an opportunity to respond, and then make a determination regarding the extent-of-injury issue.

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 APD 92642, decided January 20, 1993.

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), TX (ZIP CODE).

Carisa Space-Beam
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Margaret L. Turner
Appeals Judge