

APPEAL NO. 111096  
FILED SEPTEMBER 13, 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 June 21 and June 30, 2011. The hearing officer resolved the disputed issues by determining that: (1) (Dr. P) was properly appointed as the designated doctor in accordance with Section 408.0041; and (2) the first valid certification of maximum medical improvement (MMI) and impairment rating (IR) of October 28, 2010, by (Dr. F) did not become final under Section 408.123. The first issue on the designated doctor appointment was the sole issue certified out of the benefit review conference and was addressed at the June 21, 2011, CCH setting. However, the hearing officer re-opened the CCH on June 30, 2011, to address the second issue on finality, which was added by the hearing officer on his own motion.

The appellant (claimant) appealed the hearing officer's determinations on the proper appointment of Dr. P as the designated doctor and on finality. The respondent (carrier) responded, urging affirmance.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The CCH file contains two compact discs (CD). The first CD recorded on June 21, 2011, and submitted for review indicates that it is 29 minutes and 49 seconds in length. That CD is audible and addresses those proceedings held on June 21, 2011. The second CD recorded on June 30, 2011, and submitted for review indicates that it is 26 minutes and 30 seconds in length. The second CD is silent. The file indicates that there was no court reporter present at either setting and the file does not contain a transcript or a tape recording of the CCH proceedings. Consequently, we reverse and remand this case to the hearing officer for reconstruction of the complete CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

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 APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON O. WRIGHT, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Cynthia A. Brown  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge