

APPEAL NO. 111585
FILED DECEMBER 12, 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 September 20, 2011, in (City), Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the compensable injury of [date of injury], does not extend to reflex sympathetic dystrophy (RSD)/complex regional pain syndrome (CRPS) to the right hand and that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 6th through 10th quarters from June 28, 2008, through September 25, 2009. The claimant appealed, disputing the hearing officer's determinations of the extent of the compensable injury and the non-entitlement of SIBs for the 6th through 10th quarters. The respondent (carrier) responded, urging affirmance of the disputed determinations of the extent of the compensable injury and non-entitlement to SIBs for the 6th through 10th quarters.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on [date of injury], which resulted in an impairment rating (IR) of 15% or greater and that the claimant has not commuted any portion of the impairment income benefits. The parties also stipulated to the qualifying periods and quarter dates of the SIBs quarters in dispute. We note that the hearing officer mistakenly listed the dates for the 6th quarter of SIBs as June 28, 2009, through September 26, 2008. However, a review of the record reflects that the parties stipulated that the dates for the 6th quarter of SIBs were June 28 through September 26, 2008.

EXTENT OF INJURY

All of the SIBs applications in evidence for the quarters in dispute state that the claimant's IR is 22%. In evidence is a certification of maximum medical improvement (MMI) and IR from designated doctor, Dr. C. Dr. C certified that the claimant reached MMI on December 23, 2005, with a 22% IR. Dr. C diagnosed the claimant with CRPS upper extremity and rating the condition of "major causalgia" which according to the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) designates an extremely serious form of RSD. Dr. C noted in his explanation of assessment of impairment that the claimant had RSD or

CRPS which is a more modern term and “required a more significant award as compared to a simple entrapment neuropathy or fracture per se.”

28 TEX. ADMIN. CODE § 130.1(c)(1) (Rule 130.1(c)(1)) states that an IR is the percentage of impairment of the whole body resulting in the current compensable injury. Section 401.011(24) defines IR as the percentage of permanent impairment of the whole body resulting from a compensable injury. Rule 130.102(h) provides that if there is no pending dispute regarding the date of MMI or the IR prior to the expiration of the first quarter, the date of MMI and IR shall be final and binding. Once the IR became final pursuant to Rule 130.102(h), what was included in the underlying compensable injury was established. See Appeals Panel Decision (APD) 040150-s, decided March 8, 2004, and APD 090515, decided June 12, 2009. APD 051028-s, decided June 9, 2005, further explained:

The fact that the date of MMI and IR become final under these circumstances applies equally to the claimant and the carrier. A determination that the compensable injury extends to various other conditions not included in the IR will not allow the claimant to then challenge the date of MMI and/or the IR if there was no pending dispute regarding MMI and/or IR prior to the expiration of the [1st] quarter of SIBs. However, once the [1st] quarter of SIBs has expired and there has been no challenge of the MMI date and/or the IR, the claimant is not precluded from alleging that the compensable injury extends to include other conditions not included in the IR.

The evidence establishes that the RSD/CRPS was rated in the IR that the SIBs quarters were based on. The 6th through 10th quarters were the quarters in dispute. Therefore, the RSD/CRPS is part of the compensable injury. Accordingly, the hearing officer erred in her determination that the compensable injury of [date of injury], does not extend to RSD/CRPS to the right hand. We reverse the hearing officer’s determination that the compensable injury of [date of injury], does not extend to RSD/CRPS to the right hand and render a new decision that the compensable injury of [date of injury], does extend to RSD/CRPS to the right hand. Once the IR became final, the RSD/CRPS became part of the compensable injury because that condition was rated in the claimant’s IR.

SIBS QUARTERS 6 THROUGH 10

The hearing officer’s determination that the claimant is not entitled to SIBs for the 6th through 10th quarters is supported by sufficient evidence and is affirmed.

SUMMARY

We affirm the hearing officer's determination that the claimant is not entitled to SIBs for the 6th through 10th quarters.

We reverse the hearing officer's determination that the compensable injury of [date of injury], does not extend to RSD/CRPS to the right hand and render a new decision that the compensable injury of [date of injury], does extend to RSD/CRPS to the right hand.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
COMMODORE 1
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge