

APPEAL NO. 122265
FILED DECEMBER 18, 2012

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 October 9, 2012, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [date of injury], extends to a right hip sprain/strain, lumbar sprain/strain, and pain disorder associated with psychological factors and a general medical condition; (2) the compensable injury of [date of injury], does not extend to bilateral knee joint effusion, right knee medial meniscus tears, and bilateral S1 radiculopathy; (3) the appellant (claimant) has not reached maximum medical improvement (MMI); and (4) because the claimant has not reached MMI, the claimant has no impairment rating (IR).

The claimant appealed, disputing the hearing officer's determination that the compensable injury of [date of injury], does not extend to bilateral knee joint effusion, right knee medial meniscus tears, and bilateral S1 radiculopathy. The respondent (carrier) responded, urging affirmance of the disputed extent-of-injury determination.

The hearing officer's determinations: (1) that the compensable injury extends to a right hip sprain/strain, lumbar sprain/strain, and pain disorder associated with psychological factors and a general medical condition; (2) the claimant has not reached MMI; and (3) the claimant has no IR because he has not reached MMI, were not appealed and have become final pursuant to Section 410.169.

We note that the hearing officer made a clerical error in the decision portion of his decision and order. The hearing officer decided that "[t]he compensable injury of [date of injury], does a right hip sprain/strain, lumbar sprain/strain, and pain disorder associated with psychological factors and a general medical condition." We reform the decision to read "the compensable injury of [date of injury], does extend to a right hip sprain/strain, lumbar sprain/strain, and pain disorder associated with psychological factors and a general medical condition."

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 was recorded on one compact disc (CD). The CD enclosed in the file indicates that it is 39 minutes and 34 seconds long. The recording contains opening arguments of both parties and the direct examination of the claimant. The carrier did not cross-examine the claimant. The claimant rested his case and a

recess was taken to allow the carrier to get an expert witness on the telephone. The recording was not turned on after the recess was taken. The file indicates that there was no court reporter and the file does not contain a transcript. Consequently, we reverse and remand the disputed extent-of-injury issue to the hearing officer for reconstruction of the CCH record. See Appeals Panel Decision (APD) 100512, decided June 3, 2010.

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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge