

APPEAL NO. 130135  
FILED MARCH 21, 2013

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 December 12, 2012, in {City}, Texas, with [hearing officer] presiding as hearing officer. With regard to the issues before him, the hearing officer determined that the [date of injury], compensable injury does not extend to chronic pain disorder associated with psychological features and general medical condition, reaction depression, and anxiety, and that the respondent/cross-appellant (claimant) reached maximum medical improvement (MMI) on January 16, 2011, with a 5% impairment rating (IR).

The appellant/cross-respondent (carrier) appealed, contending that the decision contains a clerical error in the Decision portion of the decision and order and does not coincide with the findings of fact and conclusions of law. The claimant cross-appealed the hearing officer's determinations on extent of injury and the IR. The appeal file does not contain a response from the claimant to the carrier's appeal, or a response from the carrier to the claimant's cross-appeal.

#### DECISION

Affirmed as reformed in part and reversed and rendered in part.

The parties stipulated that [Dr. S] is the Texas Department of Insurance, Division of Workers' Compensation (Division)-appointed designated doctor for MMI and IR, and that the claimant reached MMI on January 16, 2011, as certified by Dr. S. The claimant testified that he injured his right arm on [date of injury], when he pulled a heavy piece of luggage at work. In a decision and order issued October 19, 2011, it was administratively determined that the compensable injury extended to complex regional pain syndrome (CRPS) of the right upper extremity (UE).

#### EXTENT OF INJURY

We note that in Finding of Fact No. 3 and Conclusion of Law No. 3 the hearing officer indicates that the compensable injury incident was not a producing cause of the claimed extent-of-injury conditions and that the compensable injury does not extend to those conditions, whereas the Decision portion of the decision and order states the compensable injury does extend to include the claimed conditions. It is clear from the Decision that the hearing officer determined the compensable injury does not extend to chronic pain disorder associated with psychological features and general medical condition, reaction depression, and anxiety. The record contains sufficient evidence to support the hearing officer's finding that the compensable injury does not extend to the

claimed conditions. We therefore reform the Decision to state that the compensable injury of [date of injury], does not extend to chronic pain disorder associated with psychological features and general medical condition, reaction depression, and anxiety to conform with Finding of Fact No. 3 and Conclusion of Law No. 3.

## IR

Section 408.125(c) provides that the report of the designated doctor shall have presumptive weight, and the Division shall base the IR on that report unless the preponderance of the other medical evidence is to the contrary, and that, if the preponderance of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Division, the Division shall adopt the IR of one of the other doctors.

The hearing officer found that the January 16, 2011 date of MMI and 5% IR certified by Dr. S is not contrary to the preponderance of the evidence, and determined the claimant's IR is 5%.

Dr. S examined the claimant on August 3, 2012, and certified that the claimant reached statutory MMI on January 16, 2011, with a 5% IR. Dr. S completed a neurological examination, which revealed no objective sensory deficit and no objective motor deficit of the right UE. In his narrative report dated August 3, 2012, Dr. S referenced a diagnosis of CRPS involving the right UE, but stated that he did not award any additional impairment for that condition. Dr. S used range of motion (ROM) measurements of the claimant's right elbow and assessed a 1% UE impairment. Dr. S also used ROM measurements of the claimant's right middle finger and assessed a 20% digit impairment. Based on the ROM measurements, Dr. S assigned a 5% whole person (WP) impairment. However, Dr. S' 5% IR contains a mathematical error, as discussed below.

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) (AMA Guides) provide on page 3/34 that Tables 1 through 3, pages 3/18 through 3/20, are used to determine a finger impairment in terms of the hand, UE, and WP. Table 1, page 3/18 is used to convert an impairment of a finger to impairment of the hand, then Table 2 page 3/19 is used to convert an impairment of the hand to impairment of the UE. Using Table 1, page 3/18, a 20% impairment of the right middle finger as assessed by Dr. S converts to a 4% impairment of the hand. Using Table 2, page 3/19, a 4% impairment of the hand converts to a 4% impairment of the UE. The AMA Guides provide on page 3/15 that the hand and elbow impairments are combined using the Combined Values Chart on page 322 to determine the total UE impairment, and then the total UE impairment is converted to a WP

impairment using Table 3, page 3/20. The 4% hand impairment combined with the one percent elbow impairment results in 5% UE impairment. Using Table 3, page 3/20, the 5% UE impairment converts to a 3% WP impairment. Dr. S failed to convert the 5% UE impairment to a 3% WP impairment under Table 3, page 3/20.

The Appeals Panel has previously stated that, where the certifying doctor's report provides the component parts of the rating that are to be combined and the act of combining those numbers is a mathematical correction which does not involve medical judgment or discretion, the Appeals Panel can recalculate the correct IR from the figures provided in the certifying doctor's report and render a new decision as to the correct IR. See Appeals Panel Decision (APD) 121194, decided September 26, 2012; APD 041413, decided July 30, 2004; APD 100111, decided March 22, 2010; and APD 101949, decided February 22, 2011.

In this case, we consider Dr. S' 5% IR a mathematical error that can be corrected without involving medical judgment or discretion. The hearing officer was persuaded that Dr. S's certification of MMI and IR was not contrary to the preponderance of the evidence and after a mathematical correction, that finding is supported by the evidence. Accordingly, we reverse the hearing officer's decision that the claimant has a 5% IR and we render a new decision that the claimant's IR is 3%.

### **SUMMARY**

We reform the hearing officer's decision to state that the compensable injury of [date of injury], does not extend to chronic pain disorder associated with psychological features and general medical condition, reaction depression, and anxiety.

We reverse the hearing officer's determination that the claimant reached MMI on January 16, 2011, with a 5% IR, and render a new decision that the claimant reached MMI on January 16, 2011, with a 3% IR.

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

**CORPORATION SERVICE COMPANY  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TEXAS 78701-3218.**

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Carisa Space-Beam  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge