

APPEAL NO. 132339  
FILED DECEMBER 12, 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 (CCH) was held on August 19, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the compensable injury extends to right knee osteophytosis and chondromalacia, and that the respondent (claimant) is entitled to Supplemental Income Benefits (SIBs) for the fifth quarter, February 13 through May 14, 2013. The appellant (carrier) appeals the hearing officer's determinations, contending that the evidence does not support the hearing officer's determinations. The appeal file does not contain a response from the claimant. We note that the hearing officer's decision and order mistakenly identifies the carrier's representative at the CCH as [RG].

**DECISION**

Affirmed in part and reversed and remanded in part.

The parties stipulated that: the claimant sustained a compensable injury on [date of injury], which resulted in an impairment rating of 15% or greater; the claimant has not commuted any portion of the impairment income benefits; the qualifying period for the fifth quarter of SIBs was from November 2, 2012, through January 31, 2013; during the qualifying period for the fifth quarter of SIBs the claimant was unemployed; and that the Texas Workforce Commission Local Workforce Development Board has determined that three weekly job searches are required in [County], where the claimant now resides, for unemployment compensation for the qualifying period in question. The claimant testified she injured her back, right side, and right knee when she fell off a chair to the ground, and that as she fell her right leg wrapped around the leg of the chair.

**EXTENT OF INJURY**

The hearing officer's determination that the compensable injury extends to right knee osteophytosis and chondromalacia is supported by sufficient evidence and is affirmed.

**SIBs**

Section 410.168 provides that a hearing officer's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 TEX. ADMIN. CODE § 142.16 (Rule 142.16) provides that a hearing

officer's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due and if so, an award of benefits due.

The hearing officer states in Conclusion of Law No. 4 and in the Decision portion of the decision and order that the claimant is entitled to SIBs for the fifth quarter, February 13 through May 14, 2013. The hearing officer found in Finding of Fact No. 3 that during the qualifying period of the fifth quarter of SIBs the claimant's unemployment was a direct result of her impairment from the compensable injury. The claimant's theories of entitlement to fifth quarter SIBs were a total inability to work and an active work search effort documented by job applications. The hearing officer made no findings of fact regarding either of the claimant's theories of entitlement to fifth quarter SIBs. Because the hearing officer's decision contains no findings of fact regarding the issue of entitlement to fifth quarter SIBs, which was an issue properly before the hearing officer to resolve, it does not comply with Section 410.168 and Rule 142.16. We therefore reverse the hearing officer's determination that the claimant is entitled to SIBs for the fifth quarter, February 13 through May 14, 2013, as being incomplete, and we remand the issue of SIBs entitlement for the fifth quarter for the hearing officer to make findings of fact regarding fifth quarter SIBs.

### **SUMMARY**

We affirm the hearing officer's determination that the compensable injury extends to right knee osteophytosis and chondromalacia.

We reverse the hearing officer's determination that the claimant is entitled to SIBs for the fifth quarter, February 13 through May 14, 2013, as being incomplete, and we remand the issue of SIBs entitlement for the fifth quarter to the hearing officer for further action consistent with this decision.

### **REMAND INSTRUCTIONS**

On remand the hearing officer is to make findings of fact and corresponding conclusions of law and a decision regarding whether the claimant is entitled to SIBs for the fifth quarter, February 13 through May 14, 2013. No new evidence is to be taken.

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 Appeals Panel Decision 060721, decided June 12, 2006.

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  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TEXAS 78701.**

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Carisa Space-Beam  
Appeals Judge

CONCUR:

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Cristina Beceiro  
Appeals Judge

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Margaret L. Turner  
Appeals Judge