

APPEAL NO. 140000  
FILED MARCH 14, 2014

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 February 25, 2013,<sup>1</sup> and concluded on November 18, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the sole disputed issue by deciding that the compensable injury of [date of injury], extends to urinary and bowel problems as well as erectile dysfunction and L5-S1 disc herniation with radiculopathy.

The appellant (carrier) appealed the hearing officer's determination, contending that the hearing officer's decision is not supported by the evidence and is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. The carrier also alleged that the stipulation contained in Finding of Fact No. 1.K. incorrectly states that the claimant reached statutory maximum medical improvement (MMI) on September 7, 2012, when the parties actually stipulated that the statutory date of MMI is September 7, 2012. Respondent 1 (claimant), in an untimely response, urged affirmance of the hearing officer's determination. The appeal file contains no response from respondent 2 (subclaimant) to the carrier's appeal.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. The appeal file contains two compact discs (CD). The first CD is approximately 31 minutes long. The second CD is approximately 1 hour and 3 minutes long. During the November 18, 2013, CCH recorded on the second CD, the hearing officer and parties agree to take a break to wait for [Dr. Z], the claimant's witness, to call and testify at the CCH. The recording then picks up in the middle of Dr. Z's testimony. The appeal file does not indicate that a court reporter was present and the file does not contain a transcript or other recording. Consequently, we remand the case for reconstruction of the CCH record.

We note that the parties stipulated at the February 25, 2013, CCH that the date of "statutory MMI is September 7, 2012," not that "[the] [c]laimant reached statutory [MMI] on September 7, 2012," as indicated in Finding of Fact No. 1.K. In reconstruction of the CCH record this stipulation contained in Finding of Fact No. 1.K. should be corrected.

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<sup>1</sup> We note that the decision does not reflect the February 25, 2013, CCH.

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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RICHARD J. GERGASKO, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Carisa Space-Beam  
Appeals Judge

CONCUR:

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Tracey T. Guerra  
Appeals Judge

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Margaret L. Turner  
Appeals Judge