

APPEAL NO. 141100
FILED JULY 17, 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 was held on April 8, 2014, in San Antonio, Texas, with [hearing officer] presiding as hearing officer. With regard to the issues before him, the hearing officer determined that: (1) the [date of injury], compensable injury does not extend to reflex sympathetic dystrophy (RSD) or complex regional pain syndrome (CRPS); (2) the appellant (claimant) reached maximum medical improvement (MMI) on December 27, 2012; and (3) the claimant's impairment rating (IR) is 6%.

The claimant appealed the hearing officer's extent of injury asserting that the hearing officer used the wrong standard in evaluating the claimant's expert medical causation. The claimant also appealed the hearing officer's MMI and IR determinations. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that: (1) on [date of injury], the claimant sustained a compensable injury in the form of left index finger laceration and infection; (2) the Texas Department of Insurance, Division of Workers' Compensation (Division)-selected designated doctor for MMI, IR and extent of injury of the compensable injury was (Dr. S); (3) on September 27, 2012, Dr. S, the designated doctor, certified that the claimant had not reached MMI, and on September 12, 2013, Dr. S determined that the compensable injury included CRPS of the left index finger of the left hand; (4) on January 8, 2013, ((Dr. S)), the post-designated doctor required medical examination (RME) doctor, certified that the claimant reached MMI on December 27, 2012, and assigned a 6% IR; and (5) the claimant's date of statutory MMI was on February 4, 2014.

EXTENT OF INJURY AND MMI

The hearing officer's determinations that the [date of injury], compensable injury does not extend to RSD or CRPS and that the claimant reached MMI on December 27, 2012, based on the certification of (Dr. S), the RME doctor, are supported by sufficient evidence and are affirmed.

IR

(Dr. S) examined the claimant on January 8, 2013, certified that the claimant reached MMI on December 27, 2012, and assigned a 6% IR based on loss of range of motion (ROM) of the left index finger using 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). However, (Dr. S)'s 6% IR contains a mathematical error, as discussed below.

(Dr. S) included the ROM measurements for the left index finger in his narrative report dated January 8, 2013. (Dr. S) reported the following measurements for the left index finger: distal interphalangeal (DIP) joint flexion 20 degrees; DIP joint extension minus 15 degrees; proximal interphalangeal (PIP) joint flexion 48 degrees; PIP joint extension 0 degree; metacarpophalangeal (MP) joint flexion 75 degrees; and MP joint extension minus 20 degrees.

On page 3/31 of the AMA Guides, the directions for DIP joint flexion and extension state that measurements must be rounded to the nearest 10 degrees. (Dr. S) assessed a 30% DIP joint impairment by using Figure 19, page 3/32. (Dr. S) measured 20 degrees of flexion and assigned a 26% impairment, and measured minus 15 degrees of extension, which he rounded up to 20 degrees, and assigned a 4% impairment. DIP joint flexion and extension impairments are added which total to a 30% impairment.

On page 3/33 of the AMA Guides, the directions for PIP joint flexion and extension state that measurements must be rounded to the nearest 10 degrees. (Dr. S) assessed a 30% PIP joint impairment by using Figure 21, on page 3/33. (Dr. S) measured 48 degrees of flexion, which he rounded up to 50 degrees, and assigned a 30% impairment, and measured a 0 degree of extension and assigned a 0% impairment. PIP joint flexion and extension impairments are added which total to a 30% impairment.

On page 3/34 of the AMA Guides, the directions for MP joint flexion and extension state that measurements must be rounded to the nearest 10 degrees. (Dr. S) assessed a 21% MP joint impairment using Figure 23, on page 3/34. (Dr. S) measured 75 degrees of flexion, rounded down to 70 degrees, and assigned an 11% impairment, and measured minus 20 degrees of extension assigned a 10% impairment. MP joint flexion and extension impairments are added to which total to a 21% impairment.

The DIP, PIP and MP joint impairments are combined using the Combined Values Chart on page 322 of the AMA Guides. (Dr. S) states that he assessed a 62% impairment for the left index finger by combining the values for the DIP, PIP and MP joint impairments.

Using Table 1 of the AMA Guides, (Dr. S) stated in his narrative report that he converted the 62% left index finger impairment to a 12% left hand impairment. However, when converting from hand impairment to upper extremity (UE) impairment, (Dr. S) erroneously stated in his narrative report that the left hand impairment was "11%," rather than 12% left hand impairment. Using Table 2, (Dr. S) converted the 11% left hand impairment to 10% left UE impairment. Using Table 3, (Dr. S) converted the 10% left UE to 6% IR.

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 6, 2012; APD 041413, decided July 30, 2004; APD 100111, decided March 22, 2010; and APD 101949, decided February 22, 2011.

Under the facts of this case, we consider (Dr. S)'s 6% IR to be a mathematical error that can be corrected without involving the exercise of medical judgment in correcting that error. Because (Dr. S) erroneously based the claimant's IR using the 11% left hand impairment, rather than the 12% left hand impairment as he correctly assessed using Table 1 of the AMA Guides, we correct (Dr. S)'s 6% IR as follows. Using Table 2, the 12% left hand impairment, as (Dr. S) correctly assessed, converts to 11% left UE impairment. Using Table 3, the 11% left UE converts to 7% IR.

Accordingly, we reverse the hearing officer's determination that the claimant's IR is 6%, and we render a new decision that the claimant's IR is 7%, as mathematically corrected.

SUMMARY

We affirm the hearing officer's determination that the [date of injury], compensable injury does not extend to RSD or CRPS.

We affirm the hearing officer's determination that the claimant reached MMI on December 27, 2012.

We reverse the hearing officer's determination that the claimant's IR is 6%, and we render a new decision that the claimant's IR is 7%, as mathematically corrected.

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 HIGHWAY 290 EAST
AUSTIN, TEXAS 78723.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge