

APPEAL NO. 142171
FILED DECEMBER 8, 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 May 8, 2014, with the record closing on September 3, 2014, in Fort Worth, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the compensable injury of [Date of Injury], does not extend to peripheral vascular disease and the appellant's (claimant) impairment rating (IR), as of the statutory maximum medical improvement (MMI) date of May 13, 2012, is 15%.

The claimant appealed, disputing the hearing officer's determination that the claimant's IR is 15% as well as the determination that the compensable injury does not extend to peripheral vascular disease. The respondent (carrier) responded, urging affirmance of the disputed extent of injury and IR determinations.

DECISION

Affirmed as reformed.

Section 410.203(b) was amended effective September 1, 2011, to allow the Appeals Panel to affirm the decision of a hearing officer as prescribed in Section 410.204(a-1). Section 410.204(a) provides, in part, that the Appeals Panel may issue a written decision on an affirmed case as described in subsection (a-1). Subsection (a-1) provides that the Appeals Panel may only issue a written decision in a case in which the panel affirms the decision of a hearing officer if the case: (1) is a case of first impression; (2) involves a recent change in law; or (3) involves errors at the CCH that require correction but do not affect the outcome of the hearing. This case is a situation that requires correction but does not affect the outcome of the hearing.

The claimant testified that he was injured on [Date of Injury], in a motor vehicle accident. The parties stipulated in part that the claimant reached statutory MMI on May 13, 2012. It was undisputed that the claimant reached MMI on the statutory date.

The hearing officer's determination that the compensable injury of [Date of Injury], does not extend to peripheral vascular disease is supported by sufficient evidence and is affirmed.

The hearing officer's determination that the claimant's IR is 15% is supported by sufficient evidence and is affirmed.

The parties stipulated at the CCH to numerous conditions that were included in the compensable injury. However, a review of the record reflects that the hearing officer inadvertently left out several of the conditions that the parties stipulated were part of the compensable injury. The decision and order in Finding of Fact 1.F. stated the following: the parties stipulated that the compensable injury includes at least a traumatic brain injury, open head wound in the form of a forehead laceration, post-concussion syndrome, right knee posterior cruciate ligament tear, L5-S1 disc herniation, double vision, bilateral closed ankle fractures, right knee degenerative change, aggravation to right knee osteoarthritis, cerebral injury, left ankle sprain, and right forearm contusion. A review of the record reflects that the parties also stipulated that the following conditions were included in the compensable injury: right knee meniscal tear, sternum fracture, right femoral shaft fracture, right tibial shaft fracture, chest contusion, a rib fracture, right little finger fracture, neck laceration, nasal fracture, and lumbar sprain/strain. We reform Finding of Fact 1.F. to include the conditions specified in the decision and order as well as the conditions that the parties stipulated to on the record but left out of the decision and order.

Finding of Fact 1.F. is reformed to read as follows: the compensable injury includes at least a traumatic brain injury, open head wound in the form of a forehead laceration, post-concussion syndrome, right knee posterior cruciate ligament tear, L5-S1 disc herniation, double vision, bilateral closed ankle fractures, right knee degenerative change, aggravation to right knee osteoarthritis, cerebral injury, left ankle sprain, right forearm contusion, right knee meniscal tear, sternum fracture, right femoral shaft fracture, right tibial shaft fracture, chest contusion, a rib fracture, right little finger fracture, neck laceration, nasal fracture, and lumbar sprain/strain.

Additionally, we note that both Finding of Fact No. 5 and Conclusion of Law No. 4 refer to the statutory date of MMI as May 13, 2102, rather than the correct statutory MMI date of May 13, 2012. We reform both Finding of Fact No. 5 and Conclusion of Law No. 4 to reference to the correct statutory date: May 13, 2012.

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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge