

APPEAL NO. 142521  
FILED JANUARY 15, 2015

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 June 3, 2014, with the record closing on October 16, 2014, in Laredo, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [Date of Injury], does not extend to the diagnoses of left shoulder rotator cuff tear, right-sided sciatica, left shoulder tendonitis, left shoulder impingement syndrome, and left shoulder bursitis; (2) the appellant (claimant) reached maximum medical improvement (MMI) on October 18, 2012; (3) the claimant's impairment rating (IR) is one percent; and (4) the first certification of MMI and assigned IR from (Dr. A) on January 18, 2013, did not become final under Section 408.123 and 28 TEX. ADMIN. CODE § 130.12 (Rule 130.12). The claimant appealed the hearing officer's extent of injury, MMI and IR determinations, as well as stipulations made at the CCH. The respondent (carrier) responded, urging affirmance of the disputed determinations.

The hearing officer's determination that the first certification of MMI and assigned IR from Dr. A on January 18, 2013, did not become final under Section 408.123 and Rule 130.12 was not appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The appeal file in this case contains one compact disc and it is completely blank. The file indicates that there was no court reporter and the file does not contain a transcript, or tape recording of the CCH proceeding. Consequently, we reverse and remand this case to the hearing officer who presided over the June 3, 2014, CCH, if possible, for reconstruction of the CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006. No new evidence should be admitted on remand. See APD 031163, decided June 17, 2003, and APD 041970, decided October 4, 2004.

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 APD 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  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Cristina Beceiro  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge