

APPEAL NO. 150232  
FILED MARCH 27, 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 April 15, 2014, in Lufkin, Texas, with [hearing officer] presiding as hearing officer. The hearing officer's decision was remanded for reconstruction of the record in Appeals Panel Decision 142119, decided December 1, 2014. On remand the hearing officer obtained and enclosed a copy of the court reporter's transcript of the CCH held on April 15, 2014. No CCH was held on remand.

The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [Date of Injury], extends to bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome; (2) the compensable injury of [Date of Injury], does not extend to bilateral rotator cuff tear arthritis, right shoulder rotator cuff syndrome, and right shoulder rotator cuff tear; (3) the appellant (claimant) reached maximum medical improvement (MMI) on April 22, 2013; and (3) the claimant's impairment rating (IR) is six percent.

The claimant appealed that portion of the hearing officer's determination that the compensable injury of [Date of Injury], does not extend to bilateral shoulder rotator cuff tear arthritis, right shoulder rotator cuff syndrome, and right shoulder rotator cuff tear, as well as the MMI and IR determinations. The appeal file does not contain a response from the respondent (carrier).

That portion of the hearing officer's determination that the compensable injury of [Date of Injury], extends to bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome was not appealed and has become final pursuant to Section 410.169.

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 he sustained a compensable injury on [Date of Injury], while securing a tarp over the top of a mulch load on a truck. The claimant testified that he lost his footing and fell approximately 12 feet off the ground landing on his left side, injuring his left and right shoulders. The parties stipulated that the claimant sustained a compensable injury on [Date of Injury], and the date of statutory MMI for the compensable injury of [Date of Injury], is July 21, 2013. Also, the parties stipulated that the carrier has accepted: left shoulder rotator cuff rupture, non-traumatic; left shoulder rotator cuff syndrome; left shoulder impingement syndrome; left shoulder bicipital tenosynovitis; left shoulder rupture of tendon; left shoulder rupture of biceps tendon; left shoulder derangement; left shoulder rupture of long head tendon of the bicep; left shoulder SLAP lesion; and a right shoulder contusion as components of the compensable injury.

**OMITTED FINDING OF FACT, CONCLUSION OF LAW  
AND CARRIER INFORMATION**

As previously mentioned above the hearing officer's determination that the compensable injury of [Date of Injury], extends to bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome was not appealed and became final pursuant to Section 410.169. Although the hearing officer omitted making a finding of fact with regard to "bilateral shoulder sprains/strains," he did make a conclusion of law that the compensable injury of [Date of Injury], extends to bilateral shoulder sprains/strains. Also, the hearing officer omitted making a finding of fact and conclusion of law with regard to "left shoulder rotator cuff syndrome," although the parties stipulated and the hearing officer determined that the compensable injury of [Date of Injury], extends to a left shoulder rotator cuff syndrome.

Pursuant to Section 410.203(c), we may not remand a case more than once. Since we previously remanded this case for reconstruction of the record, we affirm as reformed the hearing officer's decision to include an omitted finding of fact and conclusion of law with regard to the extent-of-injury conditions in dispute. To conform with the hearing officer's unappealed determination that the compensable injury of [Date of Injury], extends to a bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome, we reform the hearing officer's decision and order by adding Finding of Fact No. 6, to include bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome, and reforming Conclusion of Law No. 3 by adding left shoulder rotator cuff syndrome, as follows:

Finding of Fact No. 6: The compensable injury of [Date of Injury], extends to and includes bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome.

Conclusion of Law No. 3: The compensable injury of [Date of Injury], extends to and includes bilateral shoulder sprains/strains and left shoulder rotator cuff syndrome.

Also, we note that the hearing officer's order omits "CSC" as listed in the name of the registered agent for service of process. We reform that portion of the hearing officer's order to read as follows:

d/b/a CSC-LAWYERS INCORPORATING SERVICE COMPANY

### **EXTENT OF INJURY**

That appealed portion of the hearing officer's determination that the compensable injury of [Date of Injury], does not extend to bilateral rotator cuff tear arthritis, right shoulder rotator cuff syndrome, and right shoulder rotator cuff tear is supported by sufficient evidence and is affirmed.

### **MMI**

The hearing officer's determination that the claimant reached MMI on April 22, 2013, is supported by sufficient evidence and is affirmed.

### **IR**

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

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
d/b/a CSC-LAWYERS INCORPORATING SERVICE COMPANY  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TEXAS 78701-3218.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge