

APPEAL NO. 160118
MARCH 22, 2016

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 November 18, 2015, in Denton, 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 supraspinatus tendinosis and adhesive capsulitis of the left shoulder; (2) the date of maximum medical improvement (MMI) is November 17, 2014; and (3) the appellant's (claimant) impairment rating (IR) is seven percent.

The claimant appealed, disputing the hearing officer's determinations of the extent of the compensable injury, MMI and IR. The claimant argued that the evidence demonstrated that the disputed diagnoses were part of the compensable injury and that the certification of MMI and assignment of IR adopted by the hearing officer was not valid as it did not include all of the compensable injuries. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Reversed and remanded for reconstruction of the record.

The parties stipulated that the claimant sustained a compensable injury and that the carrier has accepted as compensable a left shoulder strain.

Section 410.203(a)(1) requires the Appeals Panel to consider the record at the CCH. The appeal file contains a compact disc (CD) recording; however, the recording contained on the CD in the file is of a CCH concerning disputed issues relating to a different claimant and docket number. The appeal file does not contain a transcript or a tape recording of the November 18, 2015, CCH proceeding in this case. Without a recording of the CCH proceeding, a full review of the record could not be completed. Consequently, we reverse and remand this case to the hearing officer who presided over the November 18, 2015, CCH, if possible, for reconstruction of the CCH record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

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

**CINDY GHALIBAF
5221 NORTH O'CONNOR BOULEVARD, SUITE 400
IRVING, TEXAS 75039-3711.**

K. Eugene Kraft
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge