

APPEAL NO. 161411
FILED SEPTEMBER 21, 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 June 7, 2016, in (city), Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by determining that: (1) the compensable injury of (date of injury), does not extend to cervical sprain, cervical strain, C4-5 and L3-4 disc bulges, L4-5, L5-S1, and T1-2 disc herniations/protrusions, lumbar radiculitis, and headaches; (2) the appellant/cross-respondent (claimant) reached maximum medical improvement (MMI) on March 25, 2015; and (3) the claimant's impairment rating (IR) is zero percent.

The claimant appealed the hearing officer's determinations regarding the extent of the compensable injury, MMI, and IR, contending that the evidence does not support those determinations. The respondent/cross-appellant (carrier) responded, urging affirmance of those determinations. The carrier cross-appealed, contending that the hearing officer failed to make any findings of fact, conclusions of law, or a decision regarding disability, which was an issue properly before the hearing officer to determine. The appeal file does not contain a response from the claimant to the carrier's cross-appeal.

DECISION

Affirmed in part and reversed and remanded in part.

The parties stipulated that the claimant sustained a compensable injury on (date of injury), in the form of at least a low back strain. The claimant testified she was injured when a pick-up truck struck the driver's front side of the 15-passenger bus she was driving.

EXTENT OF INJURY, MMI, AND IR

The hearing officer's determination that the compensable injury of (date of injury), does not extend to cervical sprain, cervical strain, C4-5 and L3-4 disc bulges, L4-5, L5-S1, and T1-2 disc herniations/protrusions, lumbar radiculitis, and headaches is supported by sufficient evidence and is affirmed.

The hearing officer's determination that the claimant reached MMI on March 25, 2015, is supported by sufficient evidence and is affirmed.

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

DISABILITY

The issue of whether the claimant had disability from November 13, 2015, through the date of the CCH was contained on the Benefit Review Conference Report and agreed to by the parties at the CCH as an issue to be determined at the CCH. The hearing officer discusses disability in the Discussion portion of the decision and states that the claimant did not have disability from November 13, 2015, through the date of the CCH in the decision and order paragraph on the first page of the decision. However, the hearing officer made no findings of fact, conclusions of law, or a decision regarding disability for the claimed period. Section 410.168 provides that a hearing officer's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 TEX. ADMIN. CODE § 142.16 (Rule 142.16) provides that a hearing officer's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due and if so, an award of benefits due. Accordingly, we reverse the hearing officer's decision as being incomplete and we remand the issue of whether the claimant had disability from November 13, 2015, through the date of the CCH to the hearing officer to make findings of fact, conclusions of law, and a decision. No new evidence is to be taken.

SUMMARY

We affirm the hearing officer's determination that the compensable injury of (date of injury), does not extend to cervical sprain, cervical strain, C4-5 and L3-4 disc bulges, L4-5, L5-S1, and T1-2 disc herniations/protrusions, lumbar radiculitis, and headaches.

We affirm the hearing officer's determination that the claimant reached MMI on March 25, 2015.

We affirm the hearing officer's determination that the claimant's IR is zero percent.

We reverse the hearing officer's decision as incomplete, and we remand the issue of whether the claimant had disability from November 13, 2015, through the date of the CCH to the hearing officer to make findings of fact, conclusions of law, and a decision.

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 Appeals Panel Decision 060721, decided June 12, 2006.

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

**CT CORPORATION
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201.**

Carisa Space-Beam
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Margaret L. Turner
Appeals Judge