

**DOCKET NO. 453-03-1017.M2**  
**MDR Tracking No. M2-02-1076-01**

<i>Petitioner</i>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>TEXAS WORKERS COMPENSATION</b>	§	
<b>COMMISSION AND AMERICAN HOME</b>	§	
<b>ASSURANCE COMPANY,</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<i>Respondents</i>		

**ORDER GRANTING DISMISSAL FOR LACK OF**  
**SUBJECT MATTER JURISDICTION**

The above styled cause was called to hearing on February 6, 2003, at the hearing facilities of the State Office of Administrative Hearings (SOAH) in Austin, Texas. Petitioner appeared by telephone assisted by Ombudsman Juan Mireles who appeared in person. Respondent appeared in person by attorney Dan C. Kelley. Administrative Law Judge John H. Beeler presided.

Mr. Mireles, on behalf of Petitioner presented an oral motion to dismiss the case based of the fact that SOAH does not have subject matter jurisdiction. Mr. Kelley agreed that the proper jurisdiction was the Texas Workers Compensation Commission, but argued that Petitioner waived jurisdiction by requesting a continuance of the original hearing.

Because the subject matter jurisdiction can not be waived, the motion is granted and this case is dismissed and remanded to the Texas Workers Compensation Commission.

**SIGNED this 7<sup>th</sup> day of February, 2003.**

**JOHN H. BEELER**  
**Administrative Law Judge**  
**State Office of Administrative Hearings**