

APPEAL NO. 040683
FILED MAY 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 10, 2004. The hearing officer determined that appellant (claimant) reached maximum medical improvement (MMI) on June 20, 2000, with an impairment rating (IR) of zero percent. Claimant appealed these determinations regarding her _____, compensable injury, contending that the designated doctor was not an authorized designated doctor, that she did not reach MMI until after her March 5, 2001, right shoulder surgery, and that the designated doctor incorrectly found there was no impairment. The file does not contain a response from respondent (carrier).

DECISION

We reverse and remand.

Claimant contends that Dr. W was not authorized to act as designated doctor when he wrote his report of December 1, 2003, responding to a letter of clarification after claimant had surgery. We agree. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 180.21(a) (Rule 180.21(a)) says that, "in order to serve as a designated doctor, a doctor must be on the Designated Doctor List (DDL)." Texas Workers' Compensation Commission (Commission) records show that Dr. W was not on the designated doctor list in December 2003. Therefore, he could not serve as designated doctor at that time to consider whether claimant's MMI date or IR had changed after her shoulder surgery. We must remand this case to the hearing officer for the selection of a second designated doctor from the DDL. Given our holding in this regard, we also reverse the hearing officer's determinations regarding MMI and IR and remand the case for further proceedings consistent with this decision.

We reverse the hearing officer's determination that claimant reached MMI on June 20, 2000, with a zero percent IR and render a decision that the issues of MMI and IR cannot be decided at this time. We remand the case for the selection of a second designated doctor and for further proceedings consistent with this 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 Commission's Division of Hearings, 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 Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

According to information provided by carrier, the true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge