

APPEAL NO. 160721
FILED JUNE 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 March 14, 2016, in Lufkin, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issue by determining that the compensable injury of (date of injury), does not extend to an aggravation of stenosis and instability at L4-5 and L5-S1; degenerative stenosis at L4-5 and L5-S1; herniated disc at L4-5; and L5 radiculopathy.

The appellant (subclaimant) appealed the hearing officer's determination, contending that the hearing officer erred in not allowing the subclaimant to participate in the CCH. The subclaimant contends that it requested the benefit review conference and CCH, and because it is a party under Section 409.009 it should have been allowed to participate in the CCH. Respondent 1 (carrier) responds, urging affirmance of the hearing officer's determination. The appeal file does not contain a response from respondent 2 (claimant) to the subclaimant's appeal.

DECISION

Reversed and remanded.

It is undisputed that the subclaimant is a subclaimant under Section 409.009. 28 TEX. ADMIN. CODE § 140.1(4) (Rule 140.1(4)) defines a "party to a proceeding" as a person entitled to take part in a proceeding because of a direct legal interest in the outcome. In Appeals Panel Decision (APD) 070647-s, decided July 18, 2007, the Appeals Panel held that a subclaimant is a party to the proceeding as having a direct legal interest in the outcome and was to be given the opportunity to participate in the dispute resolution process on the disputed extent-of-injury issue. See *also* APD 091305, decided November 4, 2009. In this case, the subclaimant alleges that it has rendered services to the claimant for the compensable injury and is seeking reimbursement for those services. As such, the subclaimant is seeking to show that the claimant's compensable injury extends to the disputed conditions in the dispute resolution process. We note that whether the subclaimant had standing was not a disputed issue to be decided at the CCH.

The hearing officer erred in failing to allow the subclaimant, a party in this case, to participate in the CCH. Accordingly, we reverse the hearing officer's determination on the extent-of-injury issue before him and remand this case to the hearing officer to allow the subclaimant the opportunity to participate in the dispute resolution process.

The hearing officer is then to determine whether the compensable injury of (date of injury), extends to an aggravation of stenosis and instability at L4-5 and L5-S1; degenerative stenosis at L4-5 and L5-S1; herniated disc at L4-5; and L5 radiculopathy.

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

**RICHARD J. GERGASKO, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Carisa Space-Beam
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Margaret L. Turner
Appeals Judge