

APPEAL NO. 181947
FILED OCTOBER 4, 2018

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 August 8, 2018, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the compensable injury of (date of injury), does not extend to the left knee medial meniscus tear, left knee lateral meniscus tear, and left knee aggravation of patellofemoral joint degeneration. The appellant (claimant) appealed, disputing the ALJ's extent-of-injury determination. The respondent (carrier) responded, urging affirmance of the disputed extent-of-injury determination.

DECISION

Reversed and remanded.

The parties stipulated, in part, that the carrier has accepted a (date of injury), compensable injury in the form of a left knee contusion. At issue was whether the compensable injury extends to the left knee medial meniscus tear, left knee lateral meniscus tear, and left knee aggravation of patellofemoral joint degeneration. In his discussion of the evidence, the ALJ stated that the claimant relied on treating doctor referral (Dr. W) for causation and that Dr. W's opinion did not persuasively explain how the compensable injury caused or aggravated the disputed conditions. However, a review of the record reflects there was no report from Dr. W in evidence. Because the ALJ references a report from a medical expert that is not in evidence, we reverse the ALJ's determination that the compensable injury of (date of injury), does not extend to the left knee medial meniscus tear, left knee lateral meniscus tear, and left knee aggravation of patellofemoral joint degeneration and remand the extent-of-injury issue to the ALJ for further action consistent with this decision. See Appeals Panel Decision (APD) 181036, decided June 26, 2018.

REMAND INSTRUCTIONS

On remand the ALJ is to decide the disputed extent-of-injury issue based on the documentary evidence and testimony admitted at the CCH. The ALJ should place the report of Dr. W in the record, if it exists, and if it was offered and admitted into evidence at the CCH.

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 ALJ, 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 **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge