

APPEAL NO. 182535
FILED JANUARY 17, 2019

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 October 9, 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), extends to right knee tricompartmental osteoarthritis. The Insurance Company of the State of Pennsylvania (carrier) appealed, disputing the ALJ's determination of extent of injury. The appeal file does not contain a response from the respondent (claimant).

DECISION

Reversed and remanded.

The parties stipulated, in part, that: on (date of injury), the claimant sustained a compensable injury; on (date of injury), the employer provided workers' compensation insurance with Insurance Company of the State of Pennsylvania, carrier; and that on the date of the CCH, the employer provided workers' compensation coverage as a self-insured. The claimant testified she was injured when she turned and twisted her right knee.

At issue was the extent of the compensable injury. The style of the CCH reflects that (employer)., as a self-insured appeared at the CCH. However, as noted earlier, an appeal to this case was received from the Insurance Company of the State of Pennsylvania.

In *Houston Gen. Ins. Co. v. Association Cas. Ins. Co.*, 977 S.W.2d 634 (Tex. App.-Tyler 1998, no writ), the Tyler Court of Appeals held that workers' compensation coverage may not be extended by waiver or estoppel. Because of the uncertainty as to the identity of the proper carrier in this case, we remand the case to the ALJ to determine the proper carrier, and if it is a carrier other than (employer)., a certified self-insured, to hold another hearing with the proper carrier present. See Appeals Panel Decision (APD) 042725, decided December 15, 2004; APD 150662, decided May 28, 2015; and APD 182321, decided December 14, 2018. On remand, the ALJ shall take official notice of the Texas Department of Insurance, Division of Workers' Compensation (Division) records regarding the proper carrier in this case. The parties are to be allowed an opportunity to present evidence as to the correct carrier and the extent-of-injury issue in this proceeding.

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 Division, 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 according to the carrier information sheet in evidence is **(EMPLOYER). (a certified self-insured)** and the name and address of its registered agent for service of process is

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Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge