

APPEAL NO. 210237
FILED APRIL 8, 2021

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 November 30, 2020, with the record closing on January 7, 2021, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that (1) the compensable injury of (date of injury), extends to cervical sprain, cervical strain, and post-traumatic headaches but does not extend to lumbar disc protrusion/herniation at L3-4, L4-5, and L5-S1, mild lateral recess stenosis at L4-5, lumbosacral radiculitis, cervical disc herniation at C4-5, C5-6, and C6-7, central stenosis at C4-5, central stenosis at C5-6, central stenosis and left foraminal narrowing at C6-7, vertigo, tinnitus, bilateral hearing loss, traumatic brain injury, major neurocognitive disorder due to traumatic brain injury, major depressive disorder, post-traumatic stress disorder (PTSD), concussion, or bleeding in the brain; (2) the appellant (claimant) reached maximum medical improvement (MMI) on November 1, 2018; and (3) claimant's impairment rating (IR) is zero percent.

The claimant appealed that portion of the ALJ's extent-of-injury determination that was adverse to him, and the ALJ's MMI and IR determinations. The respondent (carrier) responded urging affirmance of the ALJ's extent of injury, MMI, and IR determinations. The ALJ's determination that compensable injury of (date of injury), extends to cervical sprain, cervical strain, and post-traumatic headaches was not appealed and has become final pursuant to Section 410.169. We note that the parties stipulated on the record that the (date of injury), compensable injury does not extend to bleeding in the brain.

DECISION

Reversed and remanded for reconstruction of the record.

The ALJ's decision and order states that the following exhibits were admitted into evidence: ALJ's Exhibits 1 through 3; Claimant's Exhibits 1 through 14 (except Claimant's Exhibit 6, pages 24-25), and Carrier's Exhibits A through O (except Carrier's Exhibit F, pages 24-25). The claimant's Exhibit 9 contains 16 pages of medical records from The BES Group & Associates Inc.; however, the case file sent for review does not contain a Claimant's Exhibit 9, page 10. Because the record is incomplete, it must be remanded for the addition or reconstruction of the missing exhibit. See Appeals Panel Decision (APD) 030543, decided April 18, 2003.

Additionally, we note that in Issue No. 1, Finding of Fact No. 4, Conclusion of Law No. 3, the Decision section, and the Decision and Order section, the ALJ

incorrectly wrote one of the conditions at issue as “mild lateral recess stenosis at L4-5.” However, the condition in the Benefit Review Conference report and as agreed to by the parties on the record is mild left lateral recess stenosis at L4-5.

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

**RICHARD J. GERGASKO, PRESIDENT
2200 ALDRICH ST.
AUSTIN, TEXAS 78723.**

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge