

APPEAL NO. 230769  
FILED JULY 13, 2023

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 April 5, 2023, 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 an L3-4 disc protrusion, an L4-5 disc protrusion, and lumbar radiculopathy; (2) the respondent (claimant) has not reached maximum medical improvement (MMI); and (3) because the claimant has not reached MMI, the claimant does not have an impairment rating (IR) at this time. The appellant (carrier) appeals the ALJ's determinations of extent of injury, as well as the ALJ's determinations that the claimant has not yet reached MMI and therefore an IR determination cannot be made. The claimant responded, urging affirmance.

**DECISION**

Reversed in part by striking, and reversed and remanded.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), that includes at least a lumbar sprain/strain; and the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. M) as designated doctor on the issues of MMI and IR. The claimant, a fuel truck driver, testified that he injured his back on (date of injury), while lifting a hose to drain the fuel left in the line. We note that the Carrier Information Sheet inadvertently identifies the registered agent as "Corporation Service" rather than Corporation Service Company.

**EXTENT OF INJURY**

The decision states in Finding of Fact No. 1.F. the parties stipulated that the compensable injury event of (date of injury), was a producing cause of L3-4 disc protrusion, L4-5 disc protrusion, and lumbar radiculopathy. On appeal, the carrier contends that it maintained the position that the disputed conditions are not related to the compensable injury throughout the course of the CCH. A review of the record reflects the parties did not stipulate that the compensable injury was a producing cause of the disputed conditions. Accordingly, we reverse Finding of Fact No. 1.F. by striking it since the parties did not enter into that stipulation at the CCH.

The ALJ found that the medical opinion of the treating doctor for determining the extent of the compensable injury was not contrary to the medical evidence and will be adopted. However, the ALJ did not make a finding of fact identifying the specific conditions in dispute. We reverse the ALJ's determination that the compensable injury

of (date of injury), extends to an L3-4 disc protrusion, L4-5 disc protrusion, and lumbar radiculopathy. We remand the extent-of-injury issue to the ALJ to make a finding of fact regarding the specific extent-of-injury conditions in dispute.

### **MMI/IR**

Because we have reversed and remanded the issue of whether the compensable injury of (date of injury), extends to an L3-4 disc protrusion, L4-5 disc protrusion, and lumbar radiculopathy, we also reverse the ALJ's determinations that the claimant has not reached MMI and that because the claimant has not reached MMI, the claimant does not have an IR at this time. We therefore remand the issues of MMI and IR to the ALJ for further action consistent with this decision. We note that although the ALJ made a finding that the preponderance of the other medical evidence was contrary to the certification from the designated doctor that the claimant reached MMI on February 16, 2022, with a zero percent IR, the ALJ failed to make a finding of fact regarding the doctor who opined that the claimant had not yet reached MMI.

### **SUMMARY**

We reverse by striking Finding of Fact No. 1.F. that the compensable injury of (date of injury), was a producing cause of an L3-4 disc protrusion, L4-5 disc protrusion, and lumbar radiculopathy and remand the extent-of-injury issue to the ALJ for further action consistent with this decision.

We reverse the ALJ's determinations that the claimant has not reached MMI and because the claimant has not reached MMI, the claimant does not have an IR at this time. We remand the issues of MMI and IR to the ALJ for further action consistent with this decision.

### **REMAND INSTRUCTIONS**

On remand, the ALJ is to make findings of fact, conclusions of law, and a determination on the issues of extent of injury, MMI, and IR that is supported by the evidence. On remand, the ALJ should admit into evidence a corrected carrier information sheet reflecting the correct registered agent.

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 Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **EVEREST PREMIER 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 78701-3218.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Cristina Beceiro  
Appeals Judge

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Carisa Space-Beam  
Appeals Judge