

Appeals Panel Decisions
(July 05, 2011 – October 25, 2011)

110622 – Disability, extent, hearing officer exceeded her authority

110624 – 10-day letter sent to wrong address, HO to find if good cause to redo CCH

110670 – MMI/impairment rating/disability, remanded after finding of MMI date for HO to send LOC to Designated Doctor to determine impairment rating.

110687 – Designated Doctor and disqualifying association

110692 – MMI date and overpayment if TIBs

110701 – extent of injury; attenuation factor

110703 – clerical error or inconsistent finding

110706 – extent of injury

110719 – extent of injury without attendant explanation

110741 – MMI/impairment rating, no provision in the Act or Rules that adopts the AMA Guides Casebook

110854 – have to know extent of injury before can determine impairment rating.

110871 – LOC appropriately not sent; unclear which impairment rating the hearing officer chose

110878 – AWW with multiple employers; claimant's evidence did not comply with the statutory requirements of Section 408.042 and Rule 122.5

110896 – Designated Doctor did not properly apply definition of MMI

110903 – Issue of finality of impairment rating needed before can determine if designated doctor should have been appointed.

110911 – 90-day rule, claimant's testimony did not constitute an acknowledged receipt to begin the 90-day period

111006-s addresses important requirements for disputing a first valid MMI/IR certification. Essentially it says, "The Division's preamble to Rule 141.1 states that only after a complete request is submitted, approved, and a BRC scheduled has a party established a dispute of the first valid certification of MMI and/or IR, effective the date the party filed the request, in accordance with Section 408.123(e)."

111095 - The hearing officer erred in the addition of an issue that had not been raised as an issue at the BRC nor reported by the benefit review officer in the BRC report

111136 – Doctor’s narrative insufficient for SIBs entitlement

111169 – The Individual Plan for Employment was not in effect for each week of the SIBs qualifying period.

111177 – The Designated Doctor and RME impairment ratings were invalid because they did not certify an MMI date or assign an IR based on the entire compensable injury.

111188 – For SIBs, a narrative report from a doctor which specifically explains how the injury causes a total inability to work must come from one doctor.

111189-s The hearing officer found the carrier received the DWC-52 (for the second quarter) on April 1, 2011. A Request for a BRC (DWC-45) from the carrier was with the Division on April 11, 2011. The Division denied the DWC-45 requested by the carrier on April 13, 2011. The denial noted all claim information was not provided in Section II. Although a DWC-45 was filed on April 11, 2011, it was incomplete and was denied and therefore, did not constitute a dispute proceeding. The AP noted the carrier did not request an expedited CCH under Rule 141.1(g). Since the DWC-45 was denied and a complete DWC-45 was not filed within 10 days after receiving the application for SIBs, the hearing officer erred in deciding the carrier did not waive the right to contest the claimant’s entitlement to SIBs for the second quarter by failing to timely request a BRC.

111191 – On extent of injury, the hearing officer included the “and/or” language in the conclusion. The Appeals Panel reversed and rendered to “and” based upon how the rest of the decision was written. On bona fide offer of employment, because the duties assigned to the claimant exceeded the restrictions of the DWC-73 the self-insured did not make a bona fide offer of employment.

111227 - The failure to rate the entire compensable injury constitutes compelling medical evidence of a significant error by the certifying doctor in applying the appropriate AMA Guides or in calculating the impairment rating.

111238 – Follows the holding in 111189-s for SIBs

111244 – Designated Doctor did not certify the entire injury