

This proceeding must be remanded to the Administrative Law Judge for additional findings.

As indicated in their brief, the respondent and insurance carrier assert three defenses to claimant's request for benefits: (1) That claimant did not sustain personal injury by accident that arose out of and in the course of his employment with the respondent; (2) that claimant did not give timely notice of accident; and (3) that the medical evidence failed to prove that claimant needed medical treatment for his right hand and wrist.

Under K.S.A. 44-534a, the Appeals Board has the authority and jurisdiction to review preliminary findings which address the issues pertaining to accidental injury and timely notice. However, the Appeals Board does not have the jurisdiction and authority to review a preliminary finding that addresses the question of present need of medical treatment because that issue is not one of the issues specifically enumerated in K.S.A. 44-534a(a)(2), nor is it a situation where the Appeals Board would have jurisdiction under K.S.A. 44-551, as amended by S.B. 59, 1995, when an Administrative Law Judge exceeded his authority. Therefore, if the Administrative Law Judge denied benefits because he found claimant does not need medical treatment, the Appeals Board would lack jurisdiction to review this case. However, if the Administrative Law Judge denied benefits because of lack of timely notice or failure to prove a compensable accidental injury, the Appeals Board would have jurisdiction for this review. Unfortunately, the Preliminary Hearing Order entered does not provide the basis for denial.

Because the Administrative Law Judge failed to note the reason for his denial of benefits, the Appeals Board is unable to determine whether it has jurisdiction to review this preliminary matter.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this proceeding should be, and hereby is, remanded to the Administrative Law Judge for a brief statement or findings indicating the basis for the denial of benefits which is sufficient to enable the parties and Appeals Board to determine whether jurisdiction exists to grant review; that the Appeals Board does not retain jurisdiction over this matter and the parties must file a new application for review and follow the appropriate procedure should they be aggrieved by the additional findings or statement from the Administrative Law Judge.

IT IS SO ORDERED.

Dated this ____ day of April, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Mark Kolich, Kansas City, KS
Leah Brown Burkhead, Mission, KS
Steven J. Howard, Administrative Law Judge
George Gomez, Director