

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

JOAN MADRIGAL)	
Claimant)	
VS.)	
)	Docket No. 213,277
PEDDLERS INN RESTAURANT)	
Respondent)	
AND)	
)	
TRAVELERS INSURANCE COMPANY)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

Travelers Insurance Company appeals from an order entered in this case on June 5, 1998. The order required respondent and Travelers Insurance Company to provide claimant medical treatment.

ISSUES

Did the Special Administrative Law Judge exceed his jurisdiction by ordering respondent and Travelers Insurance Company to provide medical treatment?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrative Law Judge issued an order in this case on February 10, 1998, requiring respondent and its insurance carrier, Travelers Insurance Company, to provide claimant with medical treatment. As a part of that order, the Administrative Law Judge found that the date of accident for claimant's injury was March 21, 1996, the last date claimant worked for respondent and immediately prior to surgery.

Issues at that time included whether claimant had made timely written claim. For a date of accident of March 21, 1996, written claim was considered timely.

Travelers Insurance Company subsequently submitted to the Special Administrative Law Judge a document indicating that Travelers did not insure Peddlers Inn Restaurant on

March 21, 1996. A second hearing was then held May 21, 1998. At the second hearing, respondent and insurance carrier argued that the date of accident should have been April 15, 1994, and for that date of accident there was no timely written claim. Travelers Insurance Company also contended that it did not have insurance coverage on the March 21, 1996 date of accident. The Special Administrative Law Judge then issued a second order which simply reaffirmed the first stating:

After reading the preliminary award and the evidence herein, I find that a fair reading of each would support a finding that claimant suffered a continuous series of accidents and that the preliminary award is appropriate.

The Appeals Board first finds that whether claimant made timely written claim is not an issue properly before the Board on this appeal. The Administrative Law Judge made a finding on that question in the order of February 10, 1998, and no appeal was taken. The parties have presented no new evidence on this question.

The Appeals Board also finds that whether Travelers Insurance Company was the insurance carrier on the date of accident is not a jurisdictional issue. In hearing appeals from a preliminary hearing order, the Board has limited jurisdiction. The Board may review allegations only that the administrative law judge exceeded his or her jurisdiction. K.S.A. 1997 Supp. 44-551. This includes allegations that the administrative law judge erred in the jurisdictional findings of conclusion on the jurisdictional issues listed in K.S.A. 1997 Supp. 44-534a. The question of the appropriate insurance carrier is not listed in K.S.A. 44-534a and is not otherwise a jurisdictional question.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal from Travelers Insurance Company should be, and the same is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of August 1998.

BOARD MEMBER

c: C. Albert Herdoiza, Kansas City, KS
Gary R. Hathaway, Ulysses, KS
B. G. Larson, Dodge City, KS
Wendel W. Wurst, Garden City, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Director