

APPEAL NO. 980120

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 November 26, 1997. With regard to the issues at the CCH, the hearing officer determined that the appellant's (claimant) _____, compensable bilateral hand and wrist injury does not extend to his hips and right leg. The claimant files three requests for appeal, all of which are timely and are considered. He attaches medical reports to his requests for appeal which are not contained in the record. We do not consider the reports because, generally, we do not consider on appeal evidence not contained in the CCH record. Texas Workers' Compensation Commission Appeal No. 93536, decided August 12, 1993. The claimant seeks a reversal of the decision and argues an injection during treatment for his hands and wrists caused bilateral hip and right leg pain. The respondent (carrier) responds and seeks an affirmance of the decision. The claimant also files a response to the carrier's response but it is not timely as an appeal and, therefore, we do not consider it.

DECISION

We affirm.

The parties stipulated that on (injury date 2), the claimant sustained a compensable bilateral hand and wrist injury, which manifested itself as carpal tunnel syndrome (CTS). He said the CTS developed as a result of typing on a computer at (employer) insurance company. He sustained a compensable back injury while working for the employer on (injury date 1). His doctor for that injury diagnosed low-back pain syndrome and released him to return to full-time work on August 5, 1993.

On (injury date 2), the claimant's initial choice of doctor, (Dr. D), noted pain in both hands and both legs. On December 29, 1994, doctor Dr. D referred him to (Dr. Z), who diagnosed bilateral rheumatoid arthritis in his hands. On October 19, 1995, his family doctor, (Dr. L), noted bilateral knee and ankle pain complaints and suspected seronegative arthritis. On October 31, 1995, Dr. L's nurse injected prednisone into the claimant's right buttock, in an effort to relieve the hand and wrist pain. On November 2, 1995, the claimant complained to Dr. Z of severe bilateral hand pain and Dr. Z assessed a "possible flare up" of the arthritis. The medical records revealed that he first complained of right hip discomfort during a December 12, 1995, visit to Dr. Z. On March 5, 1996, a musculoskeletal doctor (Dr. MA), opined that he had a degenerative or synovial cyst on his ischium. Dr. MA also stated that the claimant "is relatively skinny and does not have much padding over his ischium," and recommended he sit on padding. On October 3, 1996, a pain specialist, (Dr. BO), assessed a two percent impairment rating (IR). On December 4, 1996, the Texas Workers' Compensation Commission (Commission)-appointed designated doctor, (Dr. N), certified maximum medical improvement on July 21, 1996, with a 13% IR. On December 17, 1996, after reviewing a magnetic resonance imaging (MRI) test, Dr. MA

diagnosed a right hip synovial cyst. On December 20, 1996, Dr. MA referred him to (Dr. BU), who wrote that "[i]t would seem unlikely that the prednisone therapy that the patient has been taking for his [CTS] could somehow be related to his ischial tuberosity pain but I can't be certain of this." The claimant saw a doctor in (country 2), (Dr. ME), who on January 31, 1997, noted that "trauma to the ischium whether chronic or acute could have resulted in his condition which was not relieved in spite of medicinee [sic], surprisingly." On February 4, 1997, the Commission-selected required medical examination doctor, (Dr. MI), opined that "evaluations referable to discovering an etiology for the right buttock pain are related to the work place injury." But Dr. MI concluded that "[t]here is no way I can correlate the small lesion . . . with the injection." On May 21, 1997, Dr. L noted that "injections are usually given in the upper-outer quadrant of the buttock and there is no reason that I could fathom why it hurts him more in the ischial area."

An injury is "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." Section 401.011(26). An employee has the burden of proving, by a preponderance of the evidence, that he sustained a compensable injury. Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The issue of the extent of an injury is a fact question for the hearing officer. Texas Workers' Compensation Commission Appeal No. 92653, decided January 21, 1993; and Texas Workers' Compensation Commission Appeal No. 92654, decided January 22, 1993.

The contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will not substitute our judgment for that of the hearing officer when the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

We conclude that the extent of injury determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and, therefore, we affirm the decision.

Christopher L. Rhodes
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Tommy W. Lueders
Appeals Judge