APPEAL NO. 990125

This appeal is considered in accordance with the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 4, 1999. The issue at the CCH was whether the respondent (claimant) was entitled to reimbursement for her travel expenses for medical treatment from her treating doctor, Dr. L.

The hearing officer found credible the claimant's testimony concerning the distance and awarded reimbursement. The total amount in issue was $257.60.

The appellant (self-insured) contends that the claimant "never disputed" that the route proposed by the self-insured was less than 20 miles one way. The self-insured further argues that driving time cannot be a consideration in ascertaining the “shortest" distance between claimant's home and her doctor. There is no response from the claimant.

DECISION

Affirmed.

The claimant was employed at the time of her injury by the (employer). Claimant lived in City 1 and her treating doctor, Dr. L, was located in City 2. The hearing officer has fully set forth the facts and we will not repeat them here. Suffice it to say, claimant, who drove major roads to go to her doctor's office, stated that the route she took, derived from an Internet-based travel service, actually took 23 miles one way, 46 miles round trip. (Her Internet printout had this mapped as 21.4 miles.) There was no proof that any personal detours were taken. The self-insured offered its own map, 18.8 miles, and said the actual drive was 18.9 miles one way (evidence of an actual return trip was not offered). In contrast to what self-insured asserts on appeal, the claimant did dispute the route offered by the self-insured and said that many of the streets therein did not hook up. It was undisputed that the route offered by the self-insured took about twice the time to drive. Both Internet maps contained a disclaimer that they might not represent actual mileage and delays could result in more time than that listed.

Travel expenses are due under 28 TEX. ADMIN. CODE §134.6(a)(1) and (2) (Rule 134.6(a)(1) and (2)) where the mileage is greater than 20 miles one way, with the caveat that the "shortest" route between two points be used. Clearly, the rule is intended to reimburse the use of public or private transportation traveled to obtain health care. *See* Rule 134.6(c). We do not agree that "shortest," therefore, necessarily precludes consideration of what is also the most "direct" route. Rather, we believe the intent of this rule was to make clear that detours would not be reimbursed. In any case, the hearing officer evidently believed the claimant, rather than the adjuster for the self-insured, as to the mileage consumed. This she was entitled to do.

We affirm the decision and order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Tommy W. Lueders
Appeals Judge