

APPEAL NO. 990308

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 6, 1999, a hearing was held. She determined that the appellant's (claimant) 1996 back injury did not cause a depressive disorder, sexual dysfunction, or injuries sustained by an attempted suicide. Claimant asserts that these conditions do result from the compensable back injury and cites medical evidence; certain medical evidence was also criticized as inaccurate, and articles on spinal cord injuries were also cited. Respondent (carrier) replied that the decision should be affirmed.

DECISION

We affirm.

Claimant sustained a back injury on \_\_\_\_\_, when he fell. He had surgery in January 1997, described in later medical records as a discectomy on the right at L5. Dr. C was the surgeon, and he noted in June 1997 that claimant was doing well, but with some spasms in the right hip. His plan was to release claimant to work. Dr. C's next note in the record is dated July 24, 1998; it says claimant was previously last seen on July 25, 1997 (one year earlier). A history of pain in the low back for one month was given. Dr. C commented that he reviewed an MRI provided on July 16, 1998, in City 1 with claimant. His plan was to prescribe medication. On July 31, 1998, Dr. C provided an addendum that said claimant cut his wrist on July 24, 1998.

The record does not contain medical records between January 1996 and July 1998 that mention depression, sexual dysfunction, or suicidal tendencies. Claimant added that he had none of these conditions prior to the injury.

Claimant testified that he has been in pain, unable to keep a job, been depressed, and had sexual dysfunction since the \_\_\_\_\_ injury but said he was embarrassed to bring his sexual dysfunction to a physician's attention. He acknowledged that he has been a drinker of alcoholic beverages, but added that the amount of drinking has declined since receiving a DWI in 1989. He stated that his inability to work with the resultant loss of income led to a loss of possessions and stress in his marriage. His wife went to work, which claimant indicated some reticence about, especially since she went to work in her father's bar. Claimant indicated that during this period after the injury, he was capable of jealousy.

Claimant's wife, BB testified that claimant was not depressed, did not have sexual dysfunction, and was not suicidal prior to the injury.

During cross-examination claimant answered a question that asked whether finding his wife with another man prompted him to attempt suicide, to which he answered, "Not all that. It's my back problems. They wouldn't get it fixed and I couldn't work. No income

coming in, not nothing and they come get the cars and the houses and everything else." Next, he was asked if he had not caught his wife with another man that night, did he think he would have tried to kill himself when he did, to which he answered, "No, probably not." Later, claimant did say that he had thought of suicide before.

After the attempted suicide on July 24, 1998, claimant was hospitalized; while hospitalized, Dr. M evaluated him and in his history referred to the problem starting two years before when he fell and injured his back; surgery was done, but he was said to have become worse "the past few months." Dr. M also referred to claimant having a "serious drinking problem" admitting to "shakes and withdrawal symptoms" and "blackouts." On cross-examination, claimant was asked about a history given during this hospitalization of depression for "six or seven years"; claimant replied that his mother had told the doctor that and that he did not even know what depression was until he went into the hospital.

Medical records after the suicide attempt indicate that another surgical procedure on the spine was contemplated. In August 1998, Dr. S evaluated claimant and related the history of a fall at work two years before. He also said that claimant had "no previous psychiatric history." He did relate that claimant's mother was hospitalized for depression and mentioned "two or three aunts who have a history of mental illness." Dr. S stated that claimant's liabilities are "genetic predisposition for mental illness and substance abuse."

Dr. G at some point appears to have become the treating doctor; he said on October 14, 1998, "I am now his primary care physician." He wanted claimant to see Dr. Mi for a psychiatric consult. No money was provided. A letter from the Texas Workers' Compensation Commission on October 19, 1998, indicates that Dr. Mi was to evaluate claimant in one interview. Dr. Mi, on November 16, 1998, said that he did not have all the records, but in his opinion claimant's "alcoholism and depression with a suicidal gesture are not directly causally related to the \_\_\_\_\_, back injury." Carrier also obtained a peer review from Dr. Mo, a professor in psychiatry at (Medical Center) at City 2, said that a herniated disc at L5-S1 does "not typically produce impotence." In his October 1998 report, he also said that "despite the sequence of causality" provided in the hospitalization of claimant after the attempted suicide, the family history, the prior absence of documentation of impotence, and the "diagnosis of personality disorder all suggest that the patient's psychiatric condition is not causally related to his compensable back injury."

In contrast to the above, Dr. C provided a check-off form answer to questions asked that indicates the depression and sexual dysfunction are a result of the injury. Dr. G also said that the sexual dysfunction is "most likely" related to the injury. Dr. T also said that both the depression and sexual dysfunction are related to the back injury.

The hearing officer is the sole judge of the weight and credibility of the evidence. See Section 410.165. She weighs medical evidence just as she weighs lay evidence. See Texas Workers' Compensation Commission Appeal No. 970834, decided June 23, 1997. She may give significant weight to a conclusory opinion such as the one Dr. C provided in the check-off form, but she does not have to, and, as stated in Appeal No. 970834, in most instances should give greater weight to an opinion that is explained. She could give more

weight to the opinions of Dr. Mi and Dr. Mo than she did to the opinions of Dr. C, Dr. G, and Dr. T. While claimant states that Dr. Mo referred to "sisters" when there is only one sister, Dr. S referred to claimant's mother and aunts. Whether at some point some confusion existed as to claimant's family and whether his sisters or his mother's sisters were the source of the reference was a matter for the hearing officer to consider in weighing all the evidence. Claimant also states that articles on spinal cord injuries show a relationship between back injuries and depression. This too was a matter for the hearing officer to weigh, but we note that there was no issue of whether the spinal cord had been injured in this case. Similarly, whether Dr. Mi lied or not was a matter for the hearing officer as fact finder to decide.

The Appeals Panel is not a fact finder. On factual determinations the Appeals Panel will only overturn the hearing officer's decisions when those decisions are against the great weight and preponderance of the evidence; in this case there is conflicting medical evidence and evidence of other causative factors; the determination that claimant's depression, sexual dysfunction and injuries from attempted suicide do not result from the compensable injury is not against the great weight and preponderance of the evidence.

Finding that the decision and order are sufficiently supported by the evidence, we affirm. See In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

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Joe Sebesta  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge