APPEAL NO. 990736

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 17, 1999. She (hearing officer) determined that the compensable injury of the appellant (claimant) was a producing cause of claimant's diagnosed tachycardia through January 7, 1997, but that it was not a producing cause of the claimant's tachycardia after January 7, 1997. Claimant appeals the adverse determination regarding causation and compensability of the tachycardia after January 7, 1997. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order. Carrier did not appeal the determination regarding the cause of the tachycardia before January 8, 1997.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that her compensable injury is not a producing cause of her tachycardia after January 7, 1997. Claimant asserts that the hearing officer erred because her tachycardia continued after January 7, 1997.

Claimant testified that she sustained a compensable back injury on _____, and she was treated with physical therapy and medications. Claimant said her doctor prescribed Ultram and she took a dose on December 17, 1996. Claimant said her hands turned red, she began to shake, and her "heart increased." Claimant said her doctor told her that she merely needed to get used to the medication, so claimant took another dose the next day, but had the same reaction. Claimant went to the emergency room (ER) that night and ended up staying in the hospital for tests. Claimant said she was told that the tachycardia she experienced was due to the Ultram that she had taken. Claimant testified that a pharmacist told her that she should not take Ultram anymore. Claimant said she went home from the hospital in time for Christmas 1996, but said she returned to the ER on January 7, 1997, with the same symptoms.

In a December 19, 1996, medical record, Dr. B stated that claimant was treated with Benadryl and Solu-Medrol for possible adverse drug reaction and stated under "impression," "Tachycardia, unclear etiology. Likely, it is secondary to pain, anxiety, possibly a drug reaction." A December 24, 1996, cardiac catheterization report states under post operative diagnosis that claimant has normal coronary arteries and "normal DV." A January 7, 1997, medical report from the ER at Medical Center states under "impression," "tachycardia 2 Ultram." In a September 12, 1997, report, Dr. L stated that it is extremely unlikely that claimant's symptoms were related to Ultram and that, most likely, claimant had an anxiety attack. In an April 8, 1998, letter, Dr. I stated that: (1) he believes that claimant had a reaction to Ultram that was limited to 24 or 48 hours; and (2) he does not believe that the medication caused any persistent shortness of breath or chest pains beyond 48 hours after her reaction.

A condition caused by medical treatment for a compensable injury may become part of the compensable injury. Maryland Casualty Company v. Sosa , 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e., *per curiam,* 432 S.W.2d 515). This doctrine applies to the aggravation of a preexisting condition by medical treatment for the compensable injury. Texas Employer's Indemnity Company v. Etie, 754 S.W.2d 806 (Tex. App.-Houston [1st Dist.] 1988, no writ). The Appeals Panel applied this doctrine in affirming a hearing officer who found that the claimant's diabetes was compensable when it was aggravated by steroid treatment for his compensable injury. Texas Workers' Compensation Commission Appeal No. 951290, decided September 18, 1995. The key question in the current case is whether there was sufficient evidence of a causal link between the claimant's treatment for her compensable injury and the tachycardia condition that existed after January 7, 1997.

Whether the treatment for the compensable injury caused further injury is a fact question for the hearing officer. Texas Workers' Compensation Commission Appeal No. 92538, decided November 25, 1992. Section 410.165(a) provides that 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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (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, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Applying this standard, we cannot say that the hearing officer erred in finding that the evidence established a causal link between the claimant's compensable injury and her tachycardia through January 7, 1997, but not after that date. There was evidence in the medical report of Dr. I supporting the relationship between the claimant's pre-January 8, 1997, tachycardia and her compensable injury. However, Dr. I indicated that claimant's reaction was likely limited to 24 or 48 hours after taking the medication. It was up to the hearing officer to resolve any conflict in the medical evidence and determine what facts were established. While the claimant testified that she believed there was a causal link between her compensable injury and the continuing tachycardia, the hearing officer could and did find from the evidence that the treatment for the compensable injury is not a producing cause of claimant's tachycardia after January 7, 1997.

The contention that the Ultram caused claimant's continuing tachycardia is clearly a matter where scientific evidence was necessary to establish causation. *See generally* Texas Workers' Compensation Commission Appeal No. 92187, decided June 29, 1992. In deciding this issue, the hearing officer gave weight to the opinion of Dr. I and determined that claimant did not meet her burden of proof. After reviewing the medical evidence in this case, we conclude that the hearing officer's decision and order is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra.*

We affirm the hearing officer's decision and order.

Judy Stephens
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge