

APPEAL NO. 991157

On May 11, 1999, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The issues at the CCH were: (1) whether the compensable injury of _____, extends to and includes the sacroiliac (SI) joint and lumbar spine; and (2) whether appellant (carrier) waived its right to contest compensability of the claimed extent of injury. Carrier requests that the hearing officer's decision that the compensable injury of _____, does extend to and include the SI joint and the lumbar spine be reversed and that a decision be rendered in its favor on that issue. Respondent (claimant) requests affirmance. There is no appeal of the hearing officer's decision that carrier did not waive its right to contest the compensability of the claimed extent of injury.

DECISION

Affirmed.

Claimant was walking up concrete steps at work on _____, when she stumbled forward, striking the front portion of her left lower leg on a step. Shortly thereafter, a large hematoma formed on her left lower leg. The hematoma on the outer portion of her leg eventually resolved; however, since her injury, claimant has experienced severe pain in her left lower leg. She has been seen by numerous medical specialists and undergone extensive evaluations and diagnostic testing. She has been diagnosed as having several disorders of the left lower leg, including, among other things, reflex sympathetic dystrophy (also called chronic or complex regional pain syndrome), compartment syndrome, nerve entrapment, and subperiosteal hematoma of the tibia. Two doctors have indicated that amputation of the left leg below the knee may be a consideration if claimant does not respond to other treatment. Claimant has undergone lumbar sympathetic blocks and a lumbar epidural infusion for her left leg pain, surgery of the left leg for compartment syndrome, and hyperbaric oxygen therapy to reduce swelling and promote tissue healing. Claimant's pain in her left leg has caused her to have reduced weight bearing of that leg and because of that she limps and has used a cane and crutches to ambulate. At the time of the CCH, claimant was still using one crutch to ambulate. The medical reports reflect that as a result of her left leg injury, claimant has pain and swelling of her left lower leg, limps, used a cane and later on crutches to ambulate, currently uses a crutch to ambulate, has decreased weight bearing on her left leg, and has a gait dysfunction, antalgic gait, and altered gait.

Claimant testified that because of her limping, her hips are pulled and rotated and she has had problems with her SI joints and indicated that she has had pain in her lumbar region. She said that her SI joint problems from limping became a chronic problem after her leg surgery. Dr. H, who evaluated claimant for an impairment rating in March 1999 at the request of her current treating doctor, Dr. HE, wrote that claimant continues to have a gait dysfunction and had developed pain in the SI joints, which, he said, was not unusual following severe and prolonged gait asymmetry. Dr. H diagnosed claimant as having,

among other things, gait dysfunction secondary to lower extremity asymmetry with resultant atrophy, weakness, and SI joint dysfunction. Dr. H also wrote that claimant's symptoms "appear to be consistent with a [SI] joint dysfunction involving multiple lumbosacral ligament structures could potentially improve with a course of prolotherapy injections, which, though not well known, have documented potential for reducing her lumbosacral pain."

Dr. HE wrote in May 1998 that he is treating claimant for chronic, intractable leg pain related to her work injury of _____, and that because of the severe leg pain, claimant "limps which causes excessive strains to be shifted from the leg to the low back which irritates the SI joint causing pain which shifts the weight back to the leg and generates a vicious cycle interfering with the patient's ability to improve." Dr. HE added that "[a]s part of the treatment program for her leg and directly related to the leg injury, treatment of the SI joint is necessary to reduce back pain to decrease this vicious cycle." In April 1999 Dr. HE wrote:

[I]t is my clinical impression that because of the severe pain and dysfunction related to her left leg injury, the patient has shifted weight support and balance and movement across the SI joint which has caused significant pain in that area. This is clearly the result of the left leg injury since if she had not injured her left leg, this shifting of weight support and activity would not have occurred. I believe I have previously covered this in a note in 1998 but having followed her from then to this point in time, I continue to believe that her SI joint symptoms are related to her leg injury.

Dr. HE referred claimant to Dr. E for treatment and Dr. E wrote in December 1998 that claimant continued to have an altered gait pattern, that she has restrictions in the left lumbodorsal and left lumbosacral/SI areas with spasms, and diagnosed claimant as having, among other things, a severe somatic dysfunction of the lumbodorsal, lumbosacral, SI, and left lower extremity areas. Dr. E also wrote that:

Justification of injury related to [SI] dysfunction and pain: Because the leg is an extension of the hip (including the femur and innominant bones) and low back (including the lumbar spine and sacrum) with the [SI] joint between the leg and the back; therefore it becomes involved with trauma to the leg and resultant strain/dysfunction with altered gait, mechanical imbalance and disproportionate weight bearing. This is known as a compensatory injury with a cascading (ascension-type) strain pattern.

Claimant had the burden to prove the extent of her compensable injury. Texas Workers' Compensation Commission Appeal No. 960733, decided May 24, 1996. "Injury" means "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm. The term includes an occupational disease." Section 401.011(26). A "compensable injury" means "an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle." Section 401.011(10). In Western Casualty and Surety Company v. Gonzales, 518 S.W.2d

524, 526 (Tex. 1975), the court noted that the site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury and that the full consequences of the original injury, together with the effects of its treatment, upon the general health and body of the worker are to be considered.

It is undisputed that claimant sustained a compensable injury to her left leg on _____. With regard to the issue of whether the compensable injury extends to and includes the SI joint and lumbar spine, the hearing officer found that claimant's problems with her lumbar spine and SI joint are a direct and natural result of that injury and concluded that the compensable injury of _____, does extend to and include that SI joint and lumbar spine. In reaching his decision, the hearing officer found that claimant's left leg pain caused her to alter her gait and transfer her weight to her lower spine and SI joint, causing extra strain on the ligaments and on those areas and that that pain and strain forced her to shift her weight back to her left leg.

Carrier contends that the medical evidence shows that claimant has an "overuse type injury" which causes strains to be shifted from the leg to the low back which irritates the SI joint causing pain which shifts weight back to the leg and that, per Texas Workers' Compensation Appeal No. 951359, decided September 27, 1995, and Texas Workers' Compensation Commission Appeal No. 950837, decided July 6, 1995, an original injury does not extend to and include additional body parts based on an overuse theory. In Appeal No. 951359, *supra*, the Appeals Panel noted that there was conflicting medical opinions as to whether a claimant's left knee condition was a result of his compensable right knee injury and affirmed the hearing officer's decision that it was not, noting that, although the evidence would have supported a different result, the hearing officer judges the weight and credibility of the evidence and resolves conflicts in the evidence and that the Appeals Panel would not substitute its judgment for that of the hearing officer since the hearing officer's decision was supported by some evidence and was not so against the great weight and preponderance of the evidence as to be manifestly wrong or unjust. In Appeal No. 950837, *supra*, a claimant sustained a compensable injury to his left wrist and later developed right wrist problems and the hearing officer found that the right wrist condition was not causally related to the compensable left wrist injury. In affirming the hearing officer's decision, the Appeals Panel stated that "[a]s in [Texas Workers' Compensation Commission] Appeal No. 93725 [decided September 28, 1993], we find that claimant's right wrist injury, based on an 'overuse' theory is not the direct and natural result of the original injury and find the hearing officer's determination on this point supported by sufficient evidence."

We do not view the extent-of-injury issue in this case to be based on an "overuse" theory nor do we find that the medical evidence suggests such a theory. Rather, the claimant's claim that her injury extends to her SI joint and lumbar spine is based on her altered gait from her compensable injury to her left leg. This case is factually similar to Texas Workers' Compensation Commission Appeal No. 93414, decided July 5, 1993, wherein the Appeals Panel affirmed a hearing officer's decision that a claimant's compensable right knee injury caused injuries to her back and left knee because her right

knee injury caused her to alter the biomechanics of her gait, which placed additional pressures on her back and other knee. In Appeal No. 93414, the claimant's treating doctor related claimant's back and left knee problems to claimant's abnormal gait from her right knee injury. See *also* Texas Workers' Compensation Commission Appeal No. 950512, decided May 16, 1995, wherein the Appeals Panel affirmed a hearing officer's decision that the claimant's injury extended to her back because her back problems resulted from an altered gait from her compensable knee injury.

The 1989 Act makes the hearing officer the sole judge of the relevance and materiality of the evidence offered and of the weight and credibility to be given to the evidence. Section 410.165(a). As the finder of fact the hearing officer resolves conflicts in the evidence and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. When reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Appeal No. 950084. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge