APPEAL NO. 000170

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On January 5, 2000, a contested case hearing was held. With respect to the issues before him, the hearing officer determined that: (1) the myofascial pain syndrome of the left neck, posterior shoulder and upper left arm is a result of the _____, compensable injury of the respondent (claimant); (2) appellant self-insured ("carrier" herein) did not waive the right to contest the compensability of this claimed injury; and (3) claimant had disability from June 20, 1999, to January 5, 2000. Carrier appealed, contending that the hearing officer erred in determining that claimant: (1) injured her arms, neck and shoulders; (2) had myofascial pain syndrome as a result of her compensable injury; and (3) claimant had disability. The file did not contain a response from claimant. The determination regarding carrier waiver was not appealed.

DECISION

We affirm.

Carrier first contends that the hearing officer erred in determining that "claimant injured her neck, arms, and shoulders while performing work-related duties." It was undisputed that claimant sustained a compensable bilateral carpal tunnel syndrome (CTS) injury.

The 1989 Act defines "injury" as "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). Thus, the scope of an injury can encompass ancillary conditions which are connected to the injury. *See* Hood v. Texas Indemnity Insurance Co., 209 S.W.2d 345 (Tex. 1948); Texas Workers' Compensation Commission Appeal No. 92452, decided October 5, 1992. It is the claimant's burden to establish that she sustained a repetitive trauma injury to her neck, arms, and shoulders caused by her work activities. The trier of fact judges the weight to be given expert medical testimony and resolves conflicts and inconsistencies in the testimony of expert medical witnesses. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appeals body, 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 or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that she worked as a data entry clerk, that she typed all day, and that she began to experience finger numbness and pain in her arms, shoulder, and neck. She said she underwent CTS-release surgery, and that she still had pain in these other regions of her body. She testified that her doctor sent her to Dr. S for testing, but that Dr. S told her he was permitted to test only her wrists. She said Dr. H diagnosed trigger points

in her arms, shoulder and neck and treated her with massage, an electronic stimulator, and pain medications.

There is evidence from Dr. H and Dr. E to support the determination that claimant sustained a repetitive trauma injury to her neck, shoulders, and arms. In a July 6, 1999, report, Dr. H stated under impression that claimant had "myofascial pain syndrome" and a "repetitive use injury" to her neck, shoulders, and arms. Dr. H suggested therapy, stretching, and a possible future course of trigger point injections in claimant's neck, shoulder and mid-back. In an October 25, 1999, report, Dr. E stated that claimant had a "chronic-stress type injury." He noted that she had chronic neck and shoulder pain, particularly on the left. Dr. E stated that he initially thought claimant's injury was limited to bilateral CTS, but that he revised his initial impression and now considered claimant's chronic pain a "separate part of her overall injury." Dr. E said that claimant's musculoskeletal pain is "exacerbated by work" and is a work-related condition. Apparently carrier is asserting that claimant did not have a separate injury to these additional body parts because pain alone is not an injury. However, Dr. H stated that claimant sustained a "repetitive use injury" to these additional body parts. He said the diagnosis of myofascial pain syndrome is also an injury that is separate from the bilateral CTS. We conclude that the hearing officer's determination regarding the scope of the injury is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra.*

Carrier specifically complains that the hearing officer determined that claimant's specific diagnosis of myofascial pain syndrome of the left neck, posterior shoulder, and left upper arm is a result of the _____, compensable bilateral CTS injury. In this case, the hearing officer weighed the evidence and determined that claimant's injury extended to the diagnosed myofascial pain syndrome. This scope of injury issue involved a fact question for the hearing officer, which he resolved. The hearing officer could decide to believe all, none, or any part of the evidence. Campos, *supra*. After reviewing the evidence, including the July 6, 1999, record from Dr. H containing the diagnosis of myofascial pain syndrome, we conclude that the hearing officer's determination regarding the scope of the injury is not so against the great weight and preponderance of the evidence as to be wrong or manifestly unjust. Cain, *supra.*

Carrier next challenges the sufficiency of the evidence to support the hearing officer's disability determination. The hearing officer determined that claimant had disability from June 20, 1999, to January 5, 2000. The applicable standard of review and the law regarding disability are set forth in Texas Workers' Compensation Commission Appeal No. 950264, decided April 3, 1995. Claimant's testimony and the September 7, 1999, report from Dr. E supports the hearing officer's disability determination in this case. We will not substitute our judgment for the hearing officer's because her disability determination 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 L. Stephens
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Alan C. Ernst
Appeals Judge