APPEAL NO. 000184

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 January 4, 2000. The hearing officer determined that the _____, compensable injury of the appellant (claimant) did not include her "dental condition that requires dental treatment." Claimant appeals this determination on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm in part and reverse and render in part.

Claimant contends the hearing officer erred in determining that her _____, compensable injury did not include her "dental condition that requires dental treatment." She asserts that she had bruises, cuts, and a loose "number nine tooth" from the incident. Claimant saw Dr. N, who referred her to a dentist, Dr. A. Dr. A's records reflect that he examined claimant and placed a "splint," with a total charge of $110.00. He also extracted some teeth, including the number nine tooth, with a charge of $663.00. Dr. A then proposed extensive dental treatment that involved the placement of several crowns and the adding of porcelain fusions to several teeth. There is a medical report stating that the charge for dental work would be $6,469.00, but it is not clear what is included in this price. Dr. A proposed treatment that included six crowns, six porcelain fusions, and the extraction of several teeth. Dr. A stated that the dental work would have been required regardless of the trauma "due to existing periodontal disease." Dr. A stated that the teeth extracted had "advanced periodontal disease and bone loss from a longstanding condition." Claimant said Dr. A began the dental work, but that he did not complete it. It is not clear from the record what reasonable and necessary medical benefits were paid.

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). The scope of an injury thus 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. The aggravation of an ordinary disease of life may be a compensable injury in its own right if the aggravation occurred in the course and scope of employment. Texas Workers' Compensation Commission Appeal No. 941577, decided January 9, 1995. However, "there must be an active incident or sequence of incidents which are alleged to have resulted in the enhancement, acceleration or worsening of the pre-existing condition," as distinguished from a "mere recurrence of symptoms inherent in the etiology of the preexisting condition that has not resolved." Texas Workers' Compensation Commission Appeal No. 94168, decided March 25, 1994; Texas Workers' Compensation Commission Appeal No. 94428, decided May 26, 1994.

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.

It was claimant's burden to establish that her compensable injury included her dental condition. We have reviewed the record and evidence regarding claimant's dental condition and her compensable injury of _____. To the extent that the evidence was conflicting, that was a matter for the hearing officer as fact finder to determine. Garza v. Commercial Insurance Company of Newark, N.J., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). He determined that claimant's compensable injury did not aggravate or worsen her "already serious dental problem" and that her compensable injury did not include the "dental condition that requires dental treatment." We affirm that part of the hearing officer's decision and order that determines that all of claimant's dental condition requiring dental treatment is not part of the compensable injury. The evidence supports a determination that claimant's preexisting periodontal disease and treatment that does not concern tooth number nine is not part of the compensable injury. We will not substitute our judgment for that of the hearing officer because this determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra.*

The hearing officer stated that the claimant's injury was a "bruised mouth and a loose tooth." The hearing officer noted that claimant's loose tooth was part of the compensable injury. Claimant is entitled to reasonable and necessary medical care related to tooth number nine, which was part of the injury. Therefore, we must reverse that part of the hearing officer's decision that determined that claimant is not entitled to reasonable and necessary medical care regarding the injury to tooth number nine. We render a decision that claimant is entitled to reasonable and necessary medical treatment regarding the injury to tooth number nine.

We affirm that part of the hearing officer's decision and order that determines that all of claimant's dental condition requiring dental treatment is not part of the compensable injury. We reverse that part of the hearing officer's decision that determined that claimant is not entitled to reasonable and necessary medical care regarding the injury to tooth number nine. We render a decision that claimant is entitled to reasonable and necessary medical care related to the injury to tooth number nine.

Judy Stephens
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Dorian E. Ramirez
Appeals Judge