

APPEAL NO. 000520

This appeal arises pursuant to the Texas Workers= Compensation Act, TEX. LAB. CODE ANN. ' 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 11, 2000. The issue at the CCH was whether the psychological problems of the appellant (claimant) were a result of the compensable injury sustained on _____. The hearing officer determined that these psychological problems were not a result of the _____, compensable injury. Claimant appeals, requesting that we reverse the hearing officer=s decision and render a decision in his favor. The respondent (carrier) responds, urging affirmance.

DECISION

We affirm.

Claimant contends that the hearing officer erred in determining that his depression and anxiety are not a natural result of his compensable injury of _____. The parties stipulated that claimant sustained a compensable left groin strain and low back injury on that date. There was medical evidence that claimant=s anxiety and depression result from his compensable injury. However, there was also medical evidence to the contrary.

The hearing officer determined that: (1) claimant had been diagnosed with depression and anxiety before his compensable injury; (2) claimant=s doctor=s opinions are not based on a proper history of claimant=s prior psychological condition and lack probative value; and (3) claimant has failed to meet his burden regarding causation in this case.

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. An aggravation of a previous condition or injury can rise to the level of a new injury. Texas Workers' Compensation Commission Appeal No. 91038, decided November 14, 1991. To be compensable, generally, an aggravation must be a new injury and not merely a transient increase in symptoms from an existing condition. Texas Workers' Compensation Commission Appeal No. 94107, decided March 10, 1994. See *also* Texas Workers' Compensation Commission Appeal No. 94428, decided May 26, 1994. It is the claimant's burden to establish that the alleged psychological problems were caused by his compensable injury. The trier of fact judges the weight to be given expert medical testimony and resolves any conflicts and inconsistencies in the evidence. 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.

We have reviewed the briefs and the evidence regarding claimant's psychological condition and the compensable injury. 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). We will not substitute our judgment for that of the hearing officer because her determinations are 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:

Robert W. Potts
Appeals Judge

Tommy W. Lueders
Appeals Judge