

APPEAL NO. 000836

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 24, 2000. The hearing officer determined that the _____, compensable low back injury of the respondent (claimant) is a producing cause of her continuing low back problems; and that claimant is entitled to reimbursement of travel expenses in the amount of \$768.32. There was also a carrier waiver issue which was determined in appellant self-insured's (carrier) favor and not appealed. Carrier appeals the producing cause and travel reimbursement determinations only. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant's _____, compensable low back injury is a producing cause of her herniation at L4-5 after February 1999. The facts of this case have been summarized in the hearing officer's decision and order. Briefly, claimant testified that she sustained a low back injury on _____, and that she subsequently underwent spinal surgery at the L4-5 level in May 1991. Claimant said she continued to seek medical treatment for her back on an as-needed basis, that she has used a TENS unit since her surgery, and that she still uses a TENS unit. Claimant said that in _____, she spent about 15 or 20 minutes raking dirt over some pipes because it was about to rain. She said she did not notice anything at that moment, but that she had a flare-up of her symptoms and she saw Dr. H, her treating doctor, about a week later. Claimant said that she had always had problems with her back after activity and that she did not consider this to be a new injury. It was later discovered that claimant had a large extruded herniated disc at the same level, L4-5. Dr. H stated in November 1999 that this was a "progression of a degenerative cascade" and that it is related to her _____ injury. In a report to carrier, Dr. P stated that it was "difficult" to say whether there was a _____ accident, but that claimant's 1999 disc herniation is not due to the _____ injury.

The hearing officer considered the evidence and concluded that claimant's _____, compensable low back injury is a producing cause of her herniation at L4-5 after February 1999. Whether the compensable injury was a producing cause of the current herniated disc was a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 000109, decided March 2, 2000. The hearing officer could have chosen to credit the opinion of Dr. H rather than the opinion of Dr. P in making his determinations in this regard. We will not reverse his determinations because they are 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). We would note that Section 408.021 provides that an injured employee "is entitled to all health care reasonably required by the nature of the injury as and when needed."

Carrier contends the hearing officer erred in determining that claimant is entitled to reimbursement of travel expenses in the amount of \$768.32. Carrier asserts only that the hearing officer should have denied reimbursement because the need for medical treatment after February 22, 1999, is not related to the _____ compensable injury. We have affirmed the producing cause determination in this case and, therefore, we also affirm the determination regarding reimbursement of travel expenses.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Philip F. O'Neill
Appeals Judge