APPEAL NO. 001083

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 6, 2000. The hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to his lumbar spine. The appellant (carrier) appeals, urging that the hearing officer's decision is against the great weight and preponderance of the evidence because: (1) the presumptively correct opinion of Dr. P clearly establishes that the claimant's lumbar problems are not an extension of the compensable injury; (2) the opinion of Dr. F is legally insufficient to establish any evidence supporting the evidence presented; and (3) in the absence of additional medical expert evidence to rebut Dr. P's opinions, lay testimony is legally insufficient to attack the findings of Dr. P. The claimant replies that the hearing officer's decision is supported by sufficient evidence and should be affirmed.

DECISION

Affirmed.

The claimant worked for the employer repairing and servicing commercial refrigeration and air conditioners. On _____, the claimant fell 20 feet through a roof hatch and sustained severe injuries to the right side of his face and right shoulder. The claimant had surgery to his face on August 13, 1998, and shoulder surgery on August 28, 1998. The claimant testified that following the injury, he had severe pain all over his body, took pain medication, and did not perform any physical activity.

In January 1999, the claimant's treating doctor prescribed physical therapy (PT) and work hardening. The claimant said that just prior to starting the program, he was taken off all pain medication. The claimant testified that he noticed back pain the first day he was at work hardening, but he was told that he was weak from the surgeries. According to the claimant, his back pain persisted and worsened over the next three months. The medical records indicate that on January 11, 1999, and thereafter, the claimant reported lower back pain. A lumbar MRI performed on April 5, 1998, revealed that the claimant has spinal canal stenosis at L2-4 with a bulging disc at L4-S1.

On May 27, 1999, the carrier had the claimant examined by Dr. F. Dr. F states that the claimant will probably need a decompressive laminectomy in the near future and that "[h]e may well have aggravated that condition during the [PT], but the situation was not etiologically associated with the occupational injury at issue here, according to my analysis as explained." On August 2, 1999, a benefit review officer appointed Dr. P to examine the claimant and provide a medical opinion on the cause of the claimant's back condition. Dr. P opined that the onset of the claimant's lower back symptomatology was not related to the initial fall of _____, or to the PT program.

The carrier argues that Dr. P was a designated doctor appointed by the Texas Workers' Compensation Commission (Commission) and his opinion should be given presumptive weight. Section 401.011(15) defines designated doctor as "a doctor appointed by mutual agreement of the parties or by the commission to recommend a resolution of a dispute as to the medical condition of an injured employee." The report of a designated doctor selected by the Commission has presumptive weight on the date of maximum medical improvement and impairment only, but may be considered in resolving other disputed issues. Texas Workers' Compensation Commission Appeal No. 941576, decided January 9, 1995. Thus, Dr. P's opinion is not entitled to presumptive weight on the causal relationship of the claimant's back condition to the compensable injury.

An injury that results from proper or necessary treatment for a compensable injury is itself compensable. Texas Workers' Compensation Commission Appeal No. 950938, decided July 24, 1995. Proper or necessary treatment may include PT prescribed for the compensable injury. Appeal No. 950938, and Texas Workers' Compensation Commission Appeal No. 93861, decided November 15, 1993. Whether a subsequent injury was caused by the compensable injury, or the proper and necessary treatment thereof, is generally a question of fact for the hearing officer to resolve.

The claimant had the burden to prove the extent of his compensable injury. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence, we will reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer found the claimant's testimony credible and supported by medical evidence indicating that during the work hardening program the claimant began to experience low back pain and symptoms. The hearing officer considered the conflicting medical evidence and found Dr. F's opinion more credible than Dr. P's. We have held that a claimant's testimony alone is sufficient to establish an injury or the extent of the injury where the subject of the injury is not so scientific or technical in nature to require expert testimony. Texas Workers' Compensation Commission Appeal No. 962528, decided January 30, 1997. While the opinion of Dr. F is not phrased in terms of reasonable medical probability, expert medical evidence was not required to prove causation given the mechanism of injury. 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, *supra;* Pool, *supra*.

The decision and order of the hearing officer are affirmed.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge