

APPEAL NO. 001720

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 May 31, 2000. With regard to the only issue before him, the hearing officer determined that the claimed injury of _____, does not extend to or include the cervical syringomyelia condition. The appellant (claimant) appeals, contending the decision is against the great weight and preponderance of the evidence and that all of the doctors, including neurosurgeons, except one orthopedic surgeon who the claimant contends "is not a specialist in this field," support the claimant's position. The claimant requests that we reverse the hearing officer's decision and render a decision in his favor. The respondent (self-insured) responds, stating that it does not dispute that the claimant sustained a compensable cervical injury and that the claimant has cervical syringomyelia but that its expert is the only doctor to discuss and offer literature on the causation of syringomyelia which the self-insured contends is a slowly progressing condition which was already present on the date of the injury and was not caused by the compensable injury. The self-insured urges affirmance.

DECISION

Affirmed.

The claimant was a laborer at the employer's bridge construction site. It is undisputed that on _____, the claimant sustained a compensable injury when he fell approximately 10 feet off the bridge landing on his head, neck, and back. The claimant was taken to a hospital emergency room (ER). At issue in this case is whether the claimant's cervical syringomyelia was caused by the compensable injury or whether it was merely discovered during diagnostic testing related to the fall.

The diagnostic data of the ER record notes a cervical MRI performed on _____, with an impression "Focal area of abnormality within the spinal cord at the level of C7 with T1 and T2 signal prolongation felt to be most consistent with syringomyelia." The claimant was referred to Dr. P, a neurosurgeon who has become the claimant's treating doctor. Dr. P's note of _____, does not address syringomyelia but does note a "questionable interspace widening C5-6."

The claimant was examined by Dr. H, the self-insured's independent medical examination doctor (for evaluation of all of the claimant's injuries but we only address the syringomyelia), who, in a report dated October 13, 1999, commented, in the diagnosis portion of the report, "Cervical syringomyelia, visible on cervical MRI scan, in my opinion, is not related to his injuries, he is currently not having symptoms in that regard at this time." In the discussion, Dr. H comments that the "syrinx" was not related to the injury "but was something that was noted on his MRI scan." In a report dated November 23, 1999, Dr. B, apparently also a treating doctor, commented that she had reviewed the claimant's MRI with Dr. P and that "the syrinx has not gotten bigger" but that Dr. P "feels that the patient's

cervical spine pain and syrinx is the result of the trauma that he sustained.” A report dated December 6, 1999, signed jointly by Dr. P and Dr. B, states:

The MRI of the cervical spine performed on [the claimant] was reviewed. It is felt at this time that the patient would not require surgery on the cervical spine and the syrinx. The opening in the cervical spine has not grown bigger. It is felt that the syrinx is due to the patient’s fall and is post traumatic in nature.

However, in an unsigned “Corrected Copy” report dated December 7, 1999, with only Dr. P’s signature block, Dr. P recommended cervical spine surgery. Two other doctors examined the claimant and agreed that the claimant had cervical syringomyelia and commented on treatment and/or surgery without commenting on causation.

Dr. H was asked for clarification and in a letter dated May 5, 2000, responded referencing a text (and enclosing excerpts) on orthopaedic neurology regarding syringomyelia and traumatic syringomyelia, stating:

Syringomyelia is generally a neurological or neurosurgical problem and it is something that orthopedics tend to be aware of but are not involved much in the treatment of.

I believe that this reference however will give you some basic idea as far as what syringomyelia is, apparently at least from this description, it is a slowly progressive problem. In that light, I would not feel that the changes would immediately have been seen on the MRI scan done the same day of [the claimant’s] injury.

The text indicates that the etiology of “true syringomyelia is unknown”; that it is a slowly, progressive disease with an “insidious” onset. Even traumatic syringomyelia “is usually preceded by a hyperextension injury several years before.” (Emphasis added.)

The hearing officer found:

FINDINGS OF FACT

10. On May 5, 2000, [Dr. H] noted that syringomyelia is a slowly progressive problem and because the condition was identified by MRI on _____, the syringomyelia could not have been caused by the fall from the bridge that day.
11. Claimant’s abnormal spine condition diagnosed as syringomyelia was not caused by or aggravated by his work activities on _____.

The claimant attacks the hearing officer's decision as being based on Dr. H's opinion and that Dr. H, as an orthopedic surgeon and not a neurosurgeon, "is not a specialist in the field and does not know much about cervical syringomyelia" and that Dr. H's "opinion should not be relied on." At the CCH, the claimant argued that the self-insured had one and one-half years to find a neurosurgeon to support its position. In that regard, we note that it is the claimant that has the burden to prove the causation of the injury and that the claimant had an equal length of time, or greater, to provide evidence beyond that of Dr. P's conclusory remark that the syringomyelia was related to the fall. Nonetheless, the self-insured introduced evidence that this is a slowly developing condition of unknown origin. There is no report or testimony which indicates that a severe fall, such as the claimant sustained, could cause the condition which would be noted on an MRI the same day as the fall. Nor is there any evidence that syringomyelia is not an insidious slowly progressing disease, which, if caused by trauma, would take several years to develop.

In any event, the evidence is conflicting and we have frequently noted that 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 the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

Upon review of the record submitted, we find no reversible error. We will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Tommy W. Lueders
Appeals Judge