

APPEAL NOS. 001722  
AND 002015

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 June 23, 2000. The hearing officer determined that the appellant (self-insured herein) is not entitled to a reduction of the respondent's (claimant herein) impairment income benefits (IIBs) for the compensable injury of \_\_\_\_\_, based on contribution from the compensable injury of \_\_\_\_\_; and that the self-insured is not entitled to suspend the claimant's IIBs for the compensable injury of \_\_\_\_\_, to recoup an \$8,308.95 overpayment due to contribution for the injury of \_\_\_\_\_. The hearing officer did determine that the self-insured is entitled to a reduction of the claimant's IIBs for the compensable injury of \_\_\_\_\_, by 69% based on contribution from the earlier compensable injury of \_\_\_\_\_. The self-insured appeals arguing that pursuant to TEX. GOV. CODE § 403.055 it is barred from paying the claimant benefits for the \_\_\_\_\_, injury when the claimant owes money for an overpayment of benefits from the \_\_\_\_\_, injury. The appeals file does not contain a response from the claimant.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

We note that the appeal deals with a limited legal issue of statutory interpretation. Neither party disputes on appeal the hearing officer's finding that the self-insured is entitled to contribution of 69% in the \_\_\_\_\_, claim due to the effects of the \_\_\_\_\_, injury. Neither party disputes on appeal the finding that as a result of this contribution, the self-insured overpaid \$8,308.95 on the \_\_\_\_\_, claim. The self-insured does not dispute that there is no provision in the 1989 Act to provide that it can recoup this amount from benefits due to the claimant on the \_\_\_\_\_, claim. The self-insured relies solely on its contention that it is barred from paying the claimant benefits on the \_\_\_\_\_, injury under TEX. GOV. CODE § 403.055 because its overpayment of the \_\_\_\_\_, injury has resulted in the claimant owing a debt to the State of Texas.

TEX. GOV. CODE § 403.055 provides as follows in relevant part:

- (a) The comptroller may not issue a warrant to a person if the person is indebted or owes delinquent taxes to the state, or owes delinquent taxes under a tax that the comptroller administers or collects, until the debt or taxes are paid.

\* \* \* \*

- (c) This section does not prohibit the comptroller from issuing a warrant to pay the compensation of:

- (1) a state officer or employee; or
- (2) an individual whose compensation is being paid by a private person through a state agency.

\* \* \* \*

(f) In this section:

- (1) "Compensation" includes wages, salaries, longevity pay, hazardous duty pay, and emoluments that are provided in lieu of wages or salaries. The term does not include expense reimbursements.
- (2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

We question whether the self-insured has actually established the existence of a "debt" for purposes of TEX. GOV. CODE § 403.055. We have stated that the Texas Workers' Compensation Commission's dispute resolution process is not a court of general jurisdiction. See Texas Workers' Compensation Commission Appeal No. 961841, decided November 4, 1996. Whether the decision of a hearing officer, which is clearly not the same as judgment from a court, establishes a "debt" in the sense it is used in TEX. GOV. CODE § 403.055(a) is less than clear. The self-insured cites no legal authority regarding this.

Even assuming *arguendo* the existence of a debt has been established by the hearing officer's decision, the claimant is a state employee. Payment of compensation to state employees is explicitly excluded from the operation of TEX. GOV. CODE § 403.055(c) from the operation of TEX. GOV. CODE § 403.055. The self-insured does argue, again without the benefit of authority, that the definition of "compensation" found in TEX. GOV. CODE § 403.055 would not include income benefits paid under the 1989 Act, or at least IIBs paid under the 1989 Act. Under these circumstances, we find no legal error in the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Judy L. Stephens  
Appeals Judge