

APPEAL NO. 001797

On June 15, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) compensable injury of _____, does not include an injury to the right knee. The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor. The respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that on _____, he was injured at work when he twisted his right leg and fell on his back while walking out of a walk-in cooler. The claimant said that he had pain in his low back and between his shoulder blades and that he was taken to a hospital emergency room. The claimant said that about three or four days after his accident of _____, his right knee started hurting.

The claimant began seeing Dr. F on October 4, 1999, and Dr. F stated an assessment of lumbosacral and cervical spine sprain/strain. Dr. F also noted ICD-9 codes of 846.0 (sprains and strains of sacroiliac region) and 924.8 (ICD-9 code 924 is contusion of lower limb and of other and unspecified sites and ICD-9 code 924.8 is multiple sites, not elsewhere classified). Dr. F recommended physical therapy for the claimant's back and neck. The claimant said that he did not have bruises on his leg. Dr. F noted on October 1, 1999, that the claimant was able to walk without any difficulty and gave an assessment of "lumbosacral strain, multiple contusions." Dr. F wrote on November 4, 1999, that the claimant complained of swelling of his right knee on that day and that when he asked the claimant how that occurred, the claimant told him that 20 years ago he was involved in a motorcycle accident and had had several operations on his right leg because of that accident. Dr. F wrote that he told the claimant that "this is not applicable to the present workman's compensation, and that he will be treated for this as a private patient."

The claimant testified that he sustained a tibial fracture of the right leg in a motorcycle accident in 1969 and that he had surgery for that injury, which included a metal plate in his shin area. The claimant said that his right knee was not involved in the motorcycle accident and that he had not received treatment for his right knee prior to his injury of _____. He said that prior to his injury of _____, he had no problems with his right knee.

The claimant changed treating doctors to Dr. R, whom claimant began treating with on November 9, 1999. Dr. R noted that the claimant complained of right knee pain and back pain. Dr. R referred the claimant to Dr. RI who wrote on November 30, 1999, that an MRI of the claimant's right knee showed a tear of the medial meniscus. The claimant

underwent right knee surgery on December 3, 1999, and the postoperative diagnosis was a tear of the medial meniscus and a tear of the lateral meniscus. Dr. A wrote in March 2000 that the claimant had post-traumatic medial and lateral meniscal tears. The claimant was examined by Dr. C at the carrier's request in April 2000 and Dr. C wrote that it is most likely that the claimant's tear of the medial meniscus is directly related to his injury of September 1999.

The claimant had the burden to prove that his right knee injury is part of his compensable injury of _____. The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The hearing officer found that the claimant did not injure his right knee when he fell at work on _____, and that the claimant did not aggravate a preexisting injury to his right knee on _____. The hearing officer concluded that the compensable injury of _____, does not include an injury to the right knee. The claimant contends that the hearing officer failed to consider the ICD-9 codes stated in Dr. F's report of October 4, 1999. While one of those codes is for contusions of the lower extremity, the claimant said that he did not have bruises on his leg and Dr. F's narrative report of that date does not mention the claimant's right knee. The first mention of the claimant's right knee in Dr. F's reports is, as found by the hearing officer, in Dr. F's report of November 4, 1999. The weight to be given to Dr. F's report of November 4, 1999, which was placed into evidence by both parties, was for the hearing officer to determine. 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.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge