

APPEAL NO. 001863

Following a contested case hearing held on July 11, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issue by determining that the respondent's (claimant) compensable injury of _____, is a producing cause of his reflex sympathetic dystrophy (RSD) with lymphedema of the right leg and of his bilateral carpal tunnel syndrome (CTS) but not of his hypertension. The claimant has appealed the adverse determination respecting the cause of his hypertension, asserting that the pain from his RSD causes the increase in his blood pressure and that the RSD has aggravated his hypertension. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant testified that while at work as an auto mechanic on _____, he was injured when a truck flywheel weighing around 100 pounds dropped onto his left foot as he was carrying it to a table. He stated that while at the hospital on _____, he was told that his blood pressure was "dangerously high." He indicated that he had a family history of high blood pressure but that he was healthy at the time of his injury and had not been previously diagnosed with high blood pressure. The medical records indicate that following the claimant's injury, he developed RSD, also known as complex regional pain syndrome (CRPS), had implanted a spinal cord stimulator, had a heart attack, had a stroke, and underwent the amputation of his left leg below the knee. The claimant contended that the pain from his compensable injury and its sequellae aggravated his high blood pressure, assuming it was preexisting.

A hospital record of May 22, 1993, apparently created at the time the claimant had the stroke, states that the claimant has a history of coronary atherosclerosis and underwent an angioplasty in August 1992, of carotid artery occlusive disease, of left lower extremity cellulitis and RSD in the lower extremities, and of obesity and hypertension.

Dr. Q wrote on July 13, 1993, that in his opinion, the lymphadema and RSD "have greatly contributed to his hypertension." Dr. A wrote on July 15, 1993, that in her opinion the claimant's hypertension "is exacerbated by his [RSD.]" Both letters were apparently seeking authorization from the carrier for the provision of antihypertensive medication. A March 15, 1995, letter from the carrier to Dr. A states that the carrier has modified its position on hypertension medication since a former physician advisor has stated that recurrent pain and associated symptoms could exacerbate hypertension that is already present, and that the carrier will "continue to authorize treatment and medications that are reasonable and related to the original injury. "

The July 5, 1994, narrative report of Dr. RB, a designated doctor who did not find that the claimant had reached maximum medical improvement, stated that in, apparently,

1993, the claimant had a severe myocardial infarction requiring angioplasty, later had a stroke, and still later had implanted a spinal cord stimulator. Dr. RB's impression was RSD in the left lower extremity, status post cerebrovascular accident, and coronary artery disease post myocardial infarction. He did not include hypertension in his 34% impairment rating (IR).

The October 5, 1994, report of Dr. W, another designated doctor, assigned the claimant a 50% IR, following his reaching statutory MMI, for his lumbosacral plexus abnormalities and his cardiovascular problems, and stated that it was the claimant's opinion that he developed uncontrolled hypertension secondary to the excruciating pain brought on by the RSD. Dr. W did not include hypertension in his IR.

Dr. M, who has been managing the claimant's pain, wrote on November 16, 1999, that the claimant's CRPS is not the limit of his medical problems in that he also suffers from coronary artery disease, has had a stroke, and has significant hypertension that requires treatment.

Dr. A wrote on January 14, 2000, that the claimant's hypertension has been more difficult to control because of his RSD and that he has had to take fairly significant doses of antihypertensive medications.

In his May 2, 2000, report, Dr. BB, who examined the claimant for the carrier, reported that the claimant's past medical history is positive for high blood pressure and for heart disease, both first diagnosed in 1992, and positive for a stroke in 1993. He further stated that in his professional medical opinion, the claimant's hypertension "is unrelated to the compensable injury of a fly wheel dropping on his left foot."

Dr. M wrote on June 5, 2000, that while he disagreed with Dr. B's opinion about the causal relationship of the claimant's RSD/CRPS to the injury of _____, he does agree with Dr. B's other points and that "[the claimant's] hypertension is also not secondary to the injury and resultant CRPS, although the CRPS can certainly aggravate it."

The claimant had the burden to prove that his compensable injury of _____, extended to hypertension. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos), 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ), and determines what facts have been proved from the conflicting evidence (St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.)). As an appellate reviewing tribunal, the Appeals Panel will not disturb a challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer specifically found that, using the medical probability standard, Dr. M determined that the claimant's compensable injury was not a producing cause of hypertension. Dr. M's June 5, 2000, report can be reasonably construed to comport with this finding and this finding is further supported by the opinion of Dr. B. While another fact finder may well have concluded that the claimant's severe and intractable pain aggravated his hypertension sufficiently to constitute an injury in its own right, we cannot say that the hearing officer's finding is against the great weight of the evidence. As for the claimant's contention that the carrier should be liable for his hypertension because it has in the past paid for his antihypertensive medications, we would only note that there was no disputed issue of waiver or estoppel reported from the benefit review conference and that the claimant has cited no legal authority to support this contention.

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Judy L. Stephens
Appeals Judge