

## APPEAL NO. 001994

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 July 20, 2000. The hearing officer determined that: (1) the appellant (claimant) did not have disability for the claimed period; (2) claimant had not yet reached maximum medical improvement; and (3) the Texas Workers' Compensation Commission (Commission) abused its discretion in approving claimant's Employee's Request to Change Treating Doctors (TWCC-53). Claimant appealed only the determinations regarding disability and the TWCC-53. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

### DECISION

We affirm.

Claimant contends the hearing officer erred in determining that he did not have disability from November 22, 1999, to the date of the hearing. It was undisputed that claimant sustained a compensable right foot injury. Claimant testified that he was injured on \_\_\_\_\_, when his foot was caught between some pipes that fell. Claimant was treated by Dr. F and an orthopaedic specialist, Dr. M, and underwent physical therapy. There was evidence that a bone scan, MRI report, and x-rays showed normal results. Claimant testified that he was off work after the July 1999 injury until November 22, 1999, when Dr. M returned him to regular-duty work. Claimant said he is still having foot pain. Claimant began treating with Dr. I who stated in a November 30, 1999, report that it was undetermined when claimant could return to work.

The applicable law and our appellate standard of review are discussed in Texas Workers' Compensation Commission Appeal No. 001031, decided June 21, 2000. In this case, the hearing officer determined that claimant did not have disability after November 22, 1999. The hearing officer noted evidence that claimant had received treatment for his injury and had been released to return to work. The hearing officer determined what facts the evidence established. After reviewing the evidence, we conclude that the disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Claimant complains of the hearing officer's determination that the Commission abused its discretion regarding the Commission's approval of claimant's treating doctor request. On January 3, 2000, the Commission approved claimant's request to change to Dr. I as his treating doctor. Claimant indicated in his brief that he may have worded his TWCC-53 "wrong" and that he had informed his original treating doctor, Dr. F, that his therapy was causing foot pain and not helping him very much. The applicable law regarding a request for a change of treating doctors is set forth in Section 408.022 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9(e) (Rule 126.9(e)). In this case, the wording of the TWCC-53 indicates that claimant sought a change of treating doctor for an

impermissible purpose: to obtain a different medical report. In the TWCC-53, claimant complained that he had been sent back to work. We have reviewed the hearing officer's decision and we perceive no reversible error.

We affirm the hearing officer's decision and order.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge