

## APPEAL NO. 002512

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 May 25, 2000, and August 28, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable occupational disease injury and that he did not have disability. Claimant appealed these determinations on sufficiency grounds. Claimant also complained that he was denied the opportunity to obtain answers to a deposition on written questions. 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 sustain a compensable occupational disease respiratory injury. Claimant asserts that exposure to chemicals at work caused an occupational disease, the aggravation of his preexisting asthma, and that he had disability from March 8, 1998, through December 21, 1998. Claimant points to evidence that he offered to support his case and asserts that the opinion of Dr. M is based on incorrect facts.

To establish that he or she has an occupational disease, a claimant's evidence must show a causal connection between the employment and the disease. Texas Workers' Compensation Commission Appeal No. 91002, decided August 7, 1991. Where, as here, the causal connection is not a matter of general knowledge, it must be proven to a reasonable medical probability by expert evidence. Texas Workers' Compensation Commission Appeal No. 93668, decided September 14, 1993; Texas Workers' Compensation Commission Appeal No. 94254, decided April 14, 1994. Whether the claimant proved causation is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 94266, decided April 19, 1994; Texas Workers' Compensation Commission Appeal No. 970504, decided May 2, 1997.

It is undisputed that claimant has a preexisting asthma condition and a history of allergies. There was conflicting evidence regarding whether claimant sustained an occupational disease injury in the form of an aggravation of his preexisting asthma due to chemical exposures at work. While claimant presented medical evidence that his work conditions caused an aggravation of his preexisting asthma, Dr. M opined that there was no causal relationship. Regarding whether Dr. M wrongly assumed that claimant's condition did not improve after he stopped working in January 1999, we note that there was medical evidence that claimant continued to complain of shortness of breath and other respiratory symptoms as late as May 2000. Dr. C said he based his opinions on the medical records and history given by claimant of exposure and physical symptoms. Claimant testified that his condition did improve after he stopped working.

The hearing officer considered the conflicting medical evidence regarding causation. He determined that claimant did not meet his burden of proof regarding causation. We have reviewed the record and we conclude that the hearing officer's determinations are 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 that he was not permitted to obtain answers to a deposition on written questions directed at Dr. M. Claimant requested the deposition of written questions on August 31, 2000, after the hearing. On appeal, claimant asserts that Dr. M was "not truthful" in his testimony regarding the nature and requirements of his employment as a medical expert. Claimant sought to obtain evidence in this regard and regarding the nature of Dr. M's employment as a medical expert through a deposition on written questions. Claimant asked Dr. M questions regarding this issue at the hearing. Claimant could have developed any evidence in this regard at and before the hearing and we perceive no abuse of discretion or error in the hearing officer's denial of the request.

We affirm the hearing officer's decision and order.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Kathleen C. Decker  
Appeals Judge

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Robert W. Potts  
Appeals Judge