

APPEAL NO. 002869

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Although the evidence of the parties was adduced, in part, at the originally scheduled contested case hearing (CCH) on April 3, 2000, the hearing on remand occurred on August 8, 2000. At that time, the parties elected to submit written findings of fact and conclusions of law. In Texas Workers' Compensation Commission Appeal No. 000921, decided June 16, 2000, the Appeals Panel remanded this case to the hearing officer to accept the determinations made by another hearing officer, which were affirmed in Texas Workers' Compensation Commission Appeal No. 960423, decided April 8, 1996, with respect to the extent of the appellant's (claimant) injury. The remand decision then instructed the hearing officer to determine the disputed issue of whether the claimant was entitled to lifetime income benefits (LIBs) for the loss of the use of his feet at or above the ankle. The hearing officer determined that the claimant was not entitled to LIBs because the claimant failed to show a causal connection between the compensable injury and the loss of his ability to use his feet. The claimant appeals the hearing officer's decision and asks that this panel reverse and render a decision in his favor. The respondent (carrier), in its response, urges that the hearing officer's decision and order be affirmed.

DECISION

Reversed and rendered.

The background facts and medical conditions are summarized in some detail in Appeal No. 000921, *supra*, and Appeal No. 960423, *supra*, and will not be repeated here. The panel in Appeal No. 960423, affirmed the findings of the hearing officer that the claimant's initial, compensable injury (a gouge on his left calf) manifested "a myriad of symptoms [which] included sepsis, decreased mental status, left lower extremity cellulitis, Rhabdomyolysis with acute renal failure, urinary tract infection and left lobe infiltrate," and that consequently those symptoms were part of the claimant's "extent of injury." According to statements in the medical records introduced at the CCH, the initial cut on the claimant's leg became infected, which infection led to his cellulitis and sepsis (blood poisoning), which sepsis caused his encephalopathy (brain degeneration) and rhabdomyolysis (muscle degeneration), all of which combined to trigger acute renal failure and ataxia (failure of muscle coordination). The medical reports all appear to indicate that the claimant experienced moderate to severe ataxia, post encephalopathy, which would appear to cause him to lose control of his muscles and produce irregularity of muscle action, such that the claimant was confined to a wheelchair and could not walk at all.

Pursuant to Sections 408.161(a)(2) and 408.161(b) of the 1989 Act, LIBs are paid until the death of the employee for the permanent loss of use of both feet at or above the ankle. The medical evidence introduced by the parties indicated that the

claimant used a wheelchair for mobility. The claimant argued that he lost the use of his feet as a direct result of his compensable injury. The carrier argued that the claimant showed no causal connection between his loss of use of his feet and the compensable injury incurred on _____.

In this case, the medical evidence established a series of events which led to the claimant's current condition and Appeal No. 960423, *supra*, established that the compensable injury included sepsis, decreased mental status, left lower extremity cellulitis, rhabdomyolysis with acute renal failure, urinary tract infection and left lower lobe infiltrate. The hearing officer, without any explanation or supporting findings, concludes that the "medical evidence" is insufficient to establish that the work-related injury, including the conditions listed above, was a cause of the claimant's loss of the use of both feet at or above the ankle. In the absence of an explanation as to why the hearing officer discounted the series of events that led to the loss of use of both feet above the ankle, his decision is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, we reverse the hearing officer's decision that the claimant is not entitled to LIBs and render a new decision that the claimant is entitled to LIBs.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge