

## APPEAL NO. 010628

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 March 6, 2001. The hearing officer determined that the respondent (claimant) has shown by a preponderance of the evidence that her travel for medical care at the direction of Dr. F was reasonably necessary and that she is entitled to reimbursement under the provisions of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6).

The appellant (carrier) has appealed this determination, asserting that the claimant has waived her right to reimbursement by failing to submit her request for reimbursement to the carrier within one year. There is no response from the claimant.

### DECISION

Affirmed.

The underlying facts in this case are largely undisputed and will not be repeated here. The travel expenses in this case occurred prior to July 15, 2000; therefore, the version of Rule 134.6 in effect after 1992, but before the July 15, 2000, amendments, controls. The controlling version of Rule 134.6 contains no time limit for a claimant to submit a request for travel reimbursement to the carrier.

The question of whether a claimant is entitled to reimbursement for travel expenses under Rule 134.6 is one of fact for the hearing officer to resolve. See Texas Workers' Compensation Commission Appeal No. 001632, decided August 30, 2000. The applicable version of Rule 134.6 does not place any time limit upon the claimant to collect travel reimbursement. The hearing officer determined that the "Claimant's travel to and from her surgeon and his referrals was reasonably necessary." The hearing officer further determined that the claimant's travel to attend required medical examinations and second opinion examinations in (city), Texas, was reasonable. Entitlement to reimbursement was found based on the evidence and no limitation in Rule 134.6 as to a time limit to ask for reimbursement. We note that assertions of estoppel or waiver are rarely applied where the 1989 Act or applicable rule imposes no limitation relevant to the question posed. See Texas Workers' Compensation Commission Appeal No. 981538, decided August 19, 1998. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses for that of the hearing officer.

The hearing officer's decision and order are affirmed.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge