APPEAL NO. 011198
FILED JULY 10, 2001

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 15, 2001. The hearing officer held that the appellant (claimant) did not injure her back on _____, when she sustained a compensable knee injury. He further determined that her impairment rating (IR) for her knee injury was 0%, as certified by the designated doctor.

The claimant has appealed and argues that she proved a back injury. She also argues that the designated doctor's IR cannot be accorded presumptive weight because he omitted any IR for her back. The respondent (carrier) responds that the hearing officer's decision is supported by the evidence. The carrier also points out that no doctor's reports refuting the correctness of the designated doctor's IR were submitted into evidence.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in determining that the claimant's knee injury did not include a low back injury that also occurred on _____. The claimant contended that she hurt her back in a slip-and-fall incident on a field trip that occurred on that day, while she was employed as an elementary school teacher. The evidence indicated that the back injury did not arise as a component of the 1993 injury until early in 1996. The claimant also sustained a fall on _____. The claimant submitted a 16% IR certification, which was performed by one of her treating or referral doctors and was for her knee only. Although the claimant denied any back problems prior to her 1993 injury, there was some indication in the records of Dr. C, her family doctor, that she was treated for back pain on at least two occasions before this date, attributable to nonwork-related traumas. The claimant responded to these points on cross-examination by asserting that any statements in Dr. C's reports were fabrications and inaccuracies.

The site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury, and the full consequences of the original injury, together with the effects of its treatment, upon the health and body of the worker are to be considered. Western Casualty and Surety Company v. Gonzales, 518 S.W.2d 524 (Tex. 1975). However, the extent of an injury is a factual determination to be made by the hearing officer. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). The hearing officer

expressly stated that the claimant was not credible in her testimony, and the record contains support for this conclusion by way of inconsistent statements or testimony which compared to records created at the time of events testified about. A hearing officer is not required to accept a doctor's recitation of a history given to him by the claimant as medical evidence on causation.

The hearing officer did not err in according presumptive weight to the designated doctor's report. "Impairment" is defined in the 1989 Act as "any anatomic or functional abnormality or loss existing after maximum medical improvement that results from a compensable injury and is reasonably presumed to be permanent." Section 401.011(23). As the extent of the _____ injury was found to be limited to the knee, the failure of the designated doctor to include the back cannot be the basis for setting aside his report.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this was the case, and affirm his decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge