

APPEAL NO. 011216
FILED JULY 17, 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 (CCH) was held on May 9, 2001. The hearing officer determined that the compensable injury of _____, was a producing cause of the respondent's (claimant) major depressive disorder. The appellant (carrier) appeals the determination, asserting that the hearing officer erred in denying its fourth request for continuance and asserting that the hearing officer's decision is contrary to the great weight and preponderance of the evidence. No response was filed.

DECISION

Affirmed.

Request for Continuance

As stated above, the carrier asserts that the hearing officer committed reversible error by denying its fourth request for continuance. The carrier filed its fourth request for continuance in this matter to allow it additional time to obtain medical evidence in support its position that the claimant's major depressive disorder is not related to the compensable injury of _____. Specifically, the carrier wishes to submit the claimant and the claimant's medical records to a medical professional for an opinion with regard to the cause of the claimant's depression.

Section 410.155(b) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.10(b)(2) (Rule 142.10(b)(2)) provide that the Texas Workers' Compensation Commission (Commission) may grant a continuance, if the hearing officer determines that good cause exists for the continuance. We review good cause determinations under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 002251, decided November 8, 2000. The hearing officer's determination will not be set aside unless the hearing officer acted without reference to any guiding rules or principles. See Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). We have held that the appropriate test for the existence of good cause is that of ordinary prudence; that is, the degree of diligence that an ordinarily prudent person would have exercised under the same or similar circumstances. Texas Workers' Compensation Commission Appeal No. 94244, decided April 15, 1994.

The carrier stated that it had been in possession of the claimant's medical records on or before April 13, 2001, but admitted that it had not submitted the records to a medical professional for a peer review in the remaining three and one-half weeks prior to the CCH, nor was there evidence that it filed a request for a required medical examination with the Commission prior to the hearing. In view of the circumstances, we cannot conclude that the hearing officer abused her discretion in determining that good cause did not exist to continue the CCH.

Extent of Injury

The hearing officer did not err in determining that the compensable injury of _____, was a producing cause of the claimant's major depressive disorder. The claimant had the burden to prove that his depression naturally resulted from the compensable injury. Section 401.011(26). See Texas Workers' Compensation Commission Appeal No. 980847, decided June 10, 1998. The fact that there may be more than one cause of the claimant's psychological condition does not preclude a finding of compensability, provided that there is a causal connection between the compensable injury and the claimant's psychological problems. Texas Workers' Compensation Commission Appeal No. 961449, decided September 9, 1996 (citing Texas Employers Ins. Ass'n v. Wilson, 522 S.W.2d 192, 195 (Tex. 1975)). Where the matter of causation of the claimed injury is beyond common knowledge or experience, expert evidence to a reasonable degree of medical probability is required. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). See Appeal No. 980847, *supra* (stating that expert medical evidence is needed to establish a causal link between a compensable injury and the claimant's psychological condition).

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We cannot conclude that the hearing officer's determination was 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 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge