

APPEAL NO. 011742
FILED SEPTEMBER 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 (CCH) was held on June 21, 2001. With regard to the sole issue before him, the hearing officer determined that the appellant's (claimant) compensable injury did not extend to or include reflex sympathetic dystrophy (RSD) of the left upper extremity or either of the lower extremities.

The claimant filed a request for review, arguing essentially that the hearing officer's determination is against the great weight and preponderance of the evidence. The respondent (self-insured employer) urges affirmance of the hearing officer's determination.

DECISION

Affirmed.

At the CCH, the parties stipulated that, while the claimant was employed as a cook by the self-insured employer, the claimant sustained a compensable right upper extremity injury on _____. The claimant testified that she had surgery to her right elbow area on December 23, 1997; however, the pain to her right upper extremity increased. The self-insured employer acknowledged that the right upper extremity injury was identified as RSD, and the hearing officer made a finding to that effect. The claimant testified that in March 1999, she began to experience pain in her left upper extremity and both lower extremities. The claimant's treating doctor, Dr. W, testified that the claimant's RSD of her right upper extremity had spread to her left upper extremity and both lower extremities. Dr. W testified that there is no medical certainty as to what causes RSD, other than it manifests after a surgery and/or injury.

The medical evidence sufficiently supports the hearing officer's determination that the compensable injury did not extend to or affect RSD in the claimant's left upper extremity, or either lower extremity. In addition to Dr. W's testimony, Dr. W's medical report in evidence states that the claimant "is very depressed due to chronic and severe pain which is spreading to her left arm and both legs." In a report Dr. C, the self-insured employer's required medical examination doctor, states that his examination "does not show that [claimant] has any spread of RSD to the left upper extremity or either lower extremity. [Claimant] does show evidence of total body fibromyalgia."

The medical evidence was conflicting and it is the hearing officer, as the sole judge of the weight and credibility of the evidence (Section 410.165(a)), who resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true of medical evidence. Texas Employers

Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was not persuaded by the medical records in evidence that the claimant's RSD of her right upper extremity had spread to her left upper extremity or to both lower extremities. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ECTOR COUNTY, SELF-INSURED THROUGH THE TEXAS ASSOCIATION OF COUNTIES WORKERS' COMPENSATION SELF-INSURED FUND**, and the name and address of its registered agent for service of process is

**SAM SEALE, EXECUTIVE DIRECTOR
TEXAS ASSOCIATION OF COUNTIES
1204 SAN ANTONIO
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge