

APPEAL NO. 011821  
FILED SEPTEMBER 7, 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 July 3, 2001, with the record closing on July 9, 2001. With respect to the single issue before her, the hearing officer determined that the appellant (self-insured) was entitled to zero percent contribution for the respondent's (claimant) prior compensable injury. In its appeal, the self-insured contends that the hearing officer erred in not awarding contribution and asks that we order contribution in the amount of 65%. In his response to the self-insured's appeal, the claimant urges affirmance.

DECISION

Affirmed.

In relevant part, Section 408.084 provides:

- (a) At the request of the insurance carrier, the commission [Texas Workers' Compensation Commission] may order that impairment income benefits and supplemental income benefits be reduced in a proportion equal to the proportion of a documented impairment that resulted from earlier compensable injuries.
- (b) The commission shall consider the cumulative impact of the compensable injuries on the employee's overall impairment in determining a reduction under this section.

In Texas Workers' Compensation Commission Appeal No. 941716, decided February 6, 1995, we noted that a carrier has the burden of proving the extent to which the claimant's prior compensable injuries contributed to his impairment and, thereafter, the issue of whether contribution should be given is a question of fact for the hearing officer to resolve. In this instance, the hearing officer determined that "[t]here was no cumulative impact of the prior injury to the subsequent injury." The hearing officer's determination in that regard is similar to the decisions in Texas Workers' Compensation Commission Appeal No. 010867, decided June 11, 2001, Texas Workers' Compensation Commission Appeal No. 990631, decided May 10, 1999, and Texas Workers' Compensation Commission Appeal No. 982303, decided November 10, 1998, where we also affirmed determinations of zero percent contribution based on consideration of cumulative impact. Our review of the record does not indicate that the hearing officer's determination that the self-insured is entitled to zero percent contribution determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust; therefore, no basis exists for reversing it on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CITY OF EL PASO** and the name and address of its registered agent for service of process is

**MAYOR OF EL PASO  
#2 CIVIC CENTER PLAZA, 10<sup>TH</sup> FLOOR  
EL PASO, TEXAS 79901-1196**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge