APPEAL NO. 012061
FILED OCTOBER 11, 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 August 7, 2001. The hearing officer determined that the compensable injury, which appellant (claimant) sustained on _____, does not extend to include the neck, shoulder, and elbow. On appeal, claimant urges that this determination is not supported by the evidence. Respondent (carrier) responded, urging affirmance.

DECISION

We affirm.

Claimant first contends that the hearing officer erred in determining that the compensable injury does not extend to include the neck, shoulder, and elbow, and asserts that the hearing officer's statement of the evidence is not accurate. Specifically, claimant argues that the hearing officer incorrectly stated that claimant "first" sought medical treatment with Dr. C. However, that is not exactly what the hearing officer stated. The hearing officer's statement of evidence states that, "[o]n February 13, 2001, [claimant] sought medical treatment with [Dr. C]". This statement is supported by the medical documentation in evidence. The first sentence of the following paragraph of the statement of evidence states that "[o]n February 26, 2001, [claimant] sought medical treatment with [Dr. J]." Claimant contends that this statement is inaccurate because both she and Dr. J testified that she first received treatment from Dr. J on the date of injury, _____. However, although some of Dr. J's medical records indicate that he initially treated claimant for the injury in question on _____, his examination notes begin on February 26, 2001. Even assuming that the hearing officer's rendition of the facts could be construed as inaccurate in the manner in which claimant contends, we would nevertheless conclude that any error was harmless. Texas Workers' Compensation Commission Appeal No. 93791, decided October 18, 1993. We further conclude that the hearing officer's determination regarding extent of injury is not 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, 176 (Tex. 1986).

Claimant also asserts that the hearing officer abused her discretion by admitting a medical report prepared by Dr. G, which she asserts was not timely exchanged with claimant. The evidence reflects that Dr. G examined claimant on July 23, 2001, and sent a report to carrier. Carrier represented that it received Dr. G's report on August 6, 2001, which was one day prior to the hearing, and then exchanged the document with claimant via facsimile on the same day it was received by carrier. The hearing officer admitted the document because she determined that carrier had exercised due diligence in exchanging the report as soon as it was received. We find no abuse of discretion. Regarding any harm from such alleged error, we note that the hearing officer said she was not persuaded by the medical evidence offered by claimant or by claimant's testimony.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **FEDERAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH**
**1445 ROSS AVENUE, STE. 4200**
**DALLAS, TEXAS 75202.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge