

APPEAL NO. 012245  
FILED DECEMBER 6, 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 8, 2001, with the record closing on September 25, 2001. The hearing officer determined that the appellant's (claimant) compensable injury to his right knee, right elbow, and back on \_\_\_\_\_, does not extend to or include a myocardial infarction or olecranon bursitis in his right elbow.

The claimant appealed, arguing essentially that the hearing officer erred in determining extent of injury. The respondent (carrier) filed a response urging affirmance of the hearing officer's decision.

DECISION

Affirmed.

The parties stipulated that on \_\_\_\_\_, the claimant sustained a compensable injury to his right knee, right elbow, and back, and that the claimant reached statutory maximum medical improvement with a 29% impairment rating. The claimant testified that he had approximately 23 surgeries to his right leg due to his compensable right knee injury. The claimant contended that the olecranon bursitis in his right elbow was a direct result of his compensable injury to his right elbow. The medical records in evidence indicate that the claimant first complained of elbow pain in December 1998, and again in October 1999 and December 1999. Then on March 19, 2000, the claimant was hospitalized and diagnosed for a myocardial infarction. The claimant contended that the myocardial infarction condition was caused by a blood clot in his right knee (thrombosis) which obstructed his coronary arteries.

The hearing officer did not err in determining that the claimant's compensable injury does not extend to or include a myocardial infarction or olecranon bursitis in his right elbow. The 1989 Act defines "injury", in pertinent part, as "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." Section 401.011(26). Extent of injury is a fact question for the hearing officer. Texas Workers' Compensation Commission Appeal No. 960407, decided April 10, 1996. The hearing officer was not persuaded by the claimant's testimony or the medical reports in evidence that the compensable injury extended to or included a myocardial infarction or olecranon bursitis of the right elbow. The hearing officer opined that "[i]t is just not reasonably medically probable that the bursitis was related to and caused by his [compensable] injury" of \_\_\_\_\_. The hearing officer noted that there was a lapse of eight years in the medical records regarding any elbow problems. The hearing officer opined that the medical records in evidence did not indicate that "a blood clot from [the claimant's] injured knee broke free and traveled to the coronary arteries to block them" causing a myocardial infarction. The evidence sufficiently supports the hearing officer's

determination that the claimant's compensable injury does not extend to or include olecran bursitis in his right elbow or myocardial infarction.

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 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).

We have reviewed the record and find no basis for the claimant's assertion that the hearing officer did not understand English or was unduly influenced by the carrier.

The decision and order of the hearing officer are affirmed.

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

**INTERNATIONAL SOLUTIONS, L.L.C.  
KATHLEEN THOMPSON  
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ARLINGTON, TEXAS 76006.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge