

APPEAL NO. 012468
FILED DECEMBER 4, 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 September 12, 2001. The hearing officer resolved the disputed issues by concluding that: (1) the employer did not tender a bona fide offer of employment; (2) there were no post-injury earnings based on a bona fide offer of employment; (3) respondent (claimant) had disability continuously from April 20, 2001, through the date of the hearing; and (4) Dr. O is the treating doctor. In its appeal, appellant self-insured (carrier herein) argues both that there was no evidence that it recommended Dr. E to claimant and that claimant's change of treating doctor was for an improper purpose. The appeals file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that Dr. O is the treating doctor in this case. Carrier asserts that claimant sought to change treating doctors from Dr. E to Dr. O for improper reasons, citing Section 408.022(d), which provides that an employee may not change doctors to secure a new impairment rating or medical report. The hearing officer determined that Dr. O was the treating doctor based on Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9(c) (Rule 126.9(c)), which provides that a doctor recommended by the employer is not an "initial choice of treating doctor" unless the employee continues to receive treatment from the doctor for more than 60 days. There was evidence from which the hearing officer could determine that Dr. E was not claimant's initial choice of treating doctor but that he was one recommended by the employer. See Rule 126.9(c). Thus, claimant could treat with Dr. O, as his initial choice of treating doctor. We conclude that the hearing officer's determinations in this regard are 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).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY - ANNA RUSSELL
900 BAGBY
HOUSTON, TEXAS 77002.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge