

APPEAL NO. 013074  
FILED JANUARY 31, 2002

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 November 15, 2001. The hearing officer determined that (1) the appellant (claimant) is not entitled to change treating doctors; and (2) the compensable injury of \_\_\_\_\_, does not extend to or include osteoarthritis or degenerative joint disease, including an aggravation of these conditions. The claimant appeals the determinations on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

**CHANGE OF TREATING DOCTOR**

The hearing officer did not err in determining that the claimant is not entitled to change treating doctors. Section 408.022 sets out the criteria for selecting and changing a treating doctor. In view of the evidence presented, the hearing officer could find, as she did, that the claimant did not meet the requirements of Section 408.022. The hearing officer's determination 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 (Tex. 1986). Given the facts of this case, we cannot conclude that the determination on this issue is an abuse of discretion.

**INJURY**

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_, does not extend to or include osteoarthritis or degenerative joint disease, including an aggravation of these conditions. This was a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 002209, decided October 27, 2000. There was conflicting evidence presented with regard to this issue. In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The claimant requests consideration of new evidence, on appeal, which would tend to show that the claimant's degenerative condition was aggravated by her slip and fall at work on \_\_\_\_\_. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). The evidence offered is not so material that it would probably produce a different result. The evidence, therefore, does not meet the requirements of newly discovered evidence and will not be considered on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C.T. CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge