

APPEAL NO. 020042  
FILED FEBRUARY 27, 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 December 12, 2001. With respect to the disputed issues, appellant (carrier) appealed the hearing officer's determination that respondent (claimant) had disability from February 25, 2001, through the date of the hearing resulting from the compensable injury sustained on \_\_\_\_\_, and that the compensable injury extends to and includes an aggravation, acceleration, and/or exacerbation of the degenerative disc disease involving the lower three disc spaces and a broad-based, central disc protrusion at the L5/S1 disc space with obliteration of the epidural fat and compression of the thecal sac. Claimant responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm in part, as modified, and reverse and render in part.

Carrier contends that the hearing officer erred in determining that claimant had disability from February 25, 2001, through the date of the hearing. We have reviewed the complained-of determination and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer's disability determination is supported by the medical evidence and claimant's testimony. We conclude that 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, 176 (Tex. 1986).

We note that the hearing officer's Conclusion of Law No. 3 contains an obvious typographical error in that it states that, "[t]he Claimant does not have disability. . . ." From our reading of the totality of the Decision and Order and findings, and our review of the evidence, we are convinced that the hearing officer determined that claimant did have disability. Accordingly, we modify that portion of the decision to read "claimant does have disability." As modified, we affirm that conclusion, or determination, regarding disability.

It is undisputed that claimant sustained a compensable back injury. Carrier contends that the hearing officer erred in determining that the compensable injury extends to includes a broad-based, central disc protrusion at the L5/S1 disc space with obliteration of the epidural fat and compression of the thecal sac. However, the hearing officer's determination is supported by claimant's testimony, the MRI report, and the report from Dr. X. We conclude that 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, *supra*.

Carrier contends that the hearing officer erred in determining that the injury extends to and includes an aggravation, acceleration, and/or exacerbation of the degenerative disc

disease involving the lower three disc spaces. Claimant does have MRI findings showing that he has such degenerative disc disease. However, no doctor stated that this degenerative disc disease was aggravated or worsened by claimant's compensable injury. There are no objective tests from before or after the injury showing such an acceleration or worsening. Due to the absence of any evidence at all regarding an aggravation, acceleration, and/or exacerbation, we must reverse this determination because it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra. In reversing, we note that there was an unusual lack of any supportive medical evidence regarding this specific claimed condition in this extent case. We do not intend to indicate that medical evidence is needed to prove that a claimant sustained an injury, in general, where the issue before the hearing officer is whether there was a compensable injury. The holding of this case is limited to cases involving extent of injury where it is claimed that an injury extends to a very specific named medical condition.

As modified, we affirm that part of the hearing officer's decision that determined that claimant had disability. We affirm that part of the hearing officer's decision that determined that claimant's injury extends to and includes a broad-based, central disc protrusion at the L5/S1 disc space with obliteration of the epidural fat and compression of the thecal sac. We reverse that part of the decision that determined that claimant's compensable injury extends to and includes an aggravation, acceleration, and/or exacerbation of the degenerative disc disease involving the lower three disc spaces and render a decision that the injury does not extend to or include an aggravation, acceleration, and/or exacerbation of the degenerative disc disease involving the lower three disc spaces.

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

**LEON CROCKETT  
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RICHARDSON, TEXAS 75080.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Terri Kay Oliver  
Appeals Judge