

APPEAL NO. 020585
FILED APRIL 16, 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 (CCH) was held on February 27, 2002. The hearing officer determined that the appellant's (claimant) compensable (head, neck, low back, and right shoulder/arm) injury did not extend to include the claimant's "current head, right shoulder, right arm, cervical spine and lumbar spine problems" and also did not extend to include vision and hearing problems.

The claimant's principal appeal is that he did not receive medical treatment for his original injury and that his "[c]urrent medical conditions are the same as initial." The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury to his head, neck, low back, and right shoulder/arm in a slip and fall on _____. Although the claimant testified that he went to a hospital emergency room (ER) a few days later, no ER record is in evidence. The claimant did treat with Dr. F, a chiropractor, for a period of time. Her treatment of the claimant appears limited to the low back. The claimant's last visit with Dr. F was December 3, 1996, the same day the claimant was incarcerated on a federal felony charge. The claimant remained in prison until late December 2000. Upon the claimant's release from prison, the claimant was examined by Dr. M, who recited an _____, injury; the claimant's history; and had an impression of:

1. Chronic neck and upper extremity pain.
2. Probable chronic cervicogenic headaches.
3. Cervical radiculopathy.
4. Chronic low back pain.

The carrier accepted the original injury but argued that it was only a sprain/strain or contusion which had resolved. The hearing officer found that the compensable injury was "in the form of a sprain/strain and a contusion to the head" and that the original injury "did not cause Claimant's hearing and visual problems." The claimant's main complaint is that the carrier had failed to provide him medical treatment while he was in prison, that his injuries have not healed, and that "no doctor [has] given [a maximum medical improvement] date." The claimant also argued at the CCH that the carrier had not made any effort to obtain his medical records. The hearing officer commented that there was no

medical evidence of causation (i.e., that the compensable injury is the cause of the claimant's current complaints) in the record.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), 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.). 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).

Accordingly, the decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Terri Kay Oliver
Appeals Judge