

APPEAL NO. 021205
FILED JUNE 25, 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 April 23, 2002. The hearing officer determined that the compensable injury sustained by the respondent (claimant) on _____, extends to and includes depression. The appellant (self-insured) contends on appeal that the evidence does not support this determination and that the findings of fact on which it is based are insufficient, conclusory, and devoid of any facts explaining how the claimant's symptoms are related to the compensable injury. The appeal file contains no response from the claimant.

DECISION

Affirmed.

The evidence reflects that the claimant sustained a compensable back injury in _____. The claimant testified that she began experiencing symptoms of depression in July 2000 and sought advise from her treating doctor, Dr. S, who recommended a psychiatric evaluation. The proposed evaluation was not approved by the self-insured. Dr. S prescribed valium. The medical evidence indicates that Dr. S treated the claimant conservatively, and without success, for symptoms of depression, which he noted included "sleep disturbances, loss of energy, withdrawal from daily activities, inability to concentrate, etc." In several different letters in evidence, Dr. S explains that the claimant has a depressive condition as a direct result of the compensable injury and its resulting effects on her life and abilities.

The hearing officer determined that the compensable injury extends to and includes depression and explains in the Statement of the Evidence that the claimant's testimony was credible and persuasive and that a causal connection between the compensable injury and the depression is supported by the medical evidence. The self-insured complains on appeal that this causal connection was not established and that, in fact, the claimant has never been diagnosed with depression. We note that the self-insured effectively prevented the claimant from obtaining a psychiatric evaluation, which would have confirmed or denied a diagnosis of depression, by its refusal to approve the evaluation. Consequently, the claimant relied on the medical evidence presented by her treating doctor, an orthopedic surgeon, who explains that while he is not qualified to treat depressive order, he believes that the claimant has a depressive order resulting from the compensable injury and its painful consequences. He noted that emotional well-being was important to the healing process and strongly recommended psychiatric evaluation. The medical evidence, combined with the claimant's testimony, is sufficient to establish that her compensable injury extends to depression and we perceive no error in the hearing officer so finding.

The self-insured contends that the hearing officer failed to make specific and necessary findings of fact and that these omissions necessitate remanding the case.

We do not agree. In support of its position, the self-insured cites Texas Workers' Compensation Commission Appeal No. 990092, decided February 10, 1999, wherein the hearing officer made a finding of fact relating to disability which was described as a "single conclusory finding" without "underlying facts, particularly regarding the extensive medical evidence" showing treatment results for a compensable back injury. In the case we now consider, the medical evidence establishing that the compensable injury includes depression is limited and offered exclusively by Dr. S. This fact, combined with the hearing officer's explanation in the Statement of the Evidence, makes clear which evidence the hearing officer relied upon in establishing a causal connection between the injury and the depression and determining that depression is included in the compensable injury. Under these circumstances, Appeal No. 990092 is not considered controlling.

Extent of injury is a factual determination for the hearing officer. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is (**a self-insured insured governmental entity**) and the name and address of its registered agent for service of process is

**MANAGER
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge