

APPEAL NO. 021452  
FILED JULY 18, 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 24, 2002. The hearing officer determined that the appellant's (claimant) compensable injury did not include her left wrist, and that she should not be allowed to change treating doctors. The claimant appealed, arguing that the hearing officer erred in determining extent of injury and change of treating doctors. The respondent (carrier) responded urging affirmance.

DECISION

Affirmed.

Regarding the extent-of-injury issue, the hearing officer did not err in determining that the claimant's compensable injury does not include her left wrist. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We have held that the question of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). This is so even though another fact finder might draw other inferences and reach other conclusions. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.)

With regard to the change of treating doctors, the claimant contends two points of error were made by the hearing officer. First, the claimant contends that the hearing officer erred in determining that Dr. VH was the treating doctor. The claimant argues that since the correct treating doctor, Dr. M, released the claimant for all medical purposes to Dr. E, and that the Texas Workers' Compensation Commission (Commission) approved the change of treating doctors from Dr. VH, the referral doctor, to Dr. E, that Dr. E should be designated the treating doctor. We do not agree. The issue before the hearing officer was "Should the claimant be allowed to change treating doctors?" rather than "Who is the treating doctor?" The hearing officer's Conclusion of Law No. 2 regarding the identity of the treating doctor states that "[t]he Claimant should not be allowed to change treating doctors and [Dr. VH] remains the Claimant's treating doctor" is superfluous, with respect to Dr. VH, and not directed to any of the issues before the hearing officer in this proceeding and will be disregarded that "[Dr. VH] remains the Claimant's treating doctor."

Regarding the second point of error, the claimant argues that the hearing officer erred in determining that she should not be allowed to change treating doctors. The claimant testified that she sought a change of treating doctors because she was dissatisfied with Dr. VH's medical treatment and that he released her to light duty when she was not able to work. A letter dated October 10, 2001, reflects that Dr. VH released the claimant to light duty. The claimant submitted an Employee's Request to Change Treating Doctors (TWCC-53) on October 15, 2001, from Dr. VH to Dr. E, which was approved by a Commission employee on October 17, 2001, after the requested doctor signed it.

Section 408.022(c) provides a list of criteria for approving a change of treating doctors. A change to secure a new medical report is prohibited. Section 408.022(d). See *also* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9 (Rule 126.9). A determination to approve or disapprove a change of treating doctors is reviewed under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 970686, decided June 4, 1997. There is an abuse of discretion when a decision maker reaches a decision without reference to guiding rules and principles. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). The carrier had the burden of proving an abuse of discretion in the approval. See Texas Workers' Compensation Commission Appeal No. 93433, decided July 7, 1993; and Texas Workers' Compensation Commission Appeal No. 941721, decided February 7, 1995 (Unpublished).

The hearing officer was satisfied that the evidence showed an abuse of discretion in the approval of the claimant's request to change treating doctors because he concluded it was done to obtain a new medical report. As noted above, the hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. 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 to be so in this case. Cain, supra; In re King's Estate, supra.

We affirm the decision and order of the hearing officer.

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

**CORPORATION SERVICE COMPANY  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge