

APPEAL NO. 021530  
FILED JULY 30, 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 May 22, 2002. The hearing officer resolved the disputed issue by determining that the compensable injury sustained by the respondent (claimant) extends to and includes an avulsion to the right shoulder. The appellant (carrier) appeals, contending that the injury in question involved the elbow, not the shoulder, and that the compensable injury should not include an avulsion to the right shoulder. The claimant notes in his response that the disputed injury is to the elbow and requests that the decision be affirmed but reformed to reflect the correct body part.

DECISION

The hearing officer's decision is affirmed as reformed.

As noted by both the claimant and the carrier, the issue reported from the benefit review conference, and agreed to at the beginning of the CCH, was whether the claimant's compensable injury includes an avulsion of the right elbow. Inexplicably, the decision itself recites the issue as one involving the "right shoulder" and refers to the "right shoulder" throughout. We will not conclude that there was reversible error, as opposed to a want of proofreading, only because no evidence or assertion was presented regarding a right shoulder injury. To correct the regrettable and repeated typographical error, the decision and order are hereby reformed to reflect that the compensable injury includes an avulsion to the "right elbow" and all references to "shoulder" are replaced with "elbow."

Despite the carrier's argument that the avulsion is not compensable because the claimant was not furthering the interests of his employer when the injury occurred, it is well settled that an injury resulting from the treatment of a compensable injury is itself compensable. Maryland Casualty Company v. Sosa, 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e. *per curiam*, 432 S.W.2d 515). The extent of a compensable injury is a factual determination for the hearing officer to resolve. He evidently believed that the avulsion resulted from physical therapy rather than from any other causes suggested.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order as reformed.

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

**MARCUS CHARLES MERRITT  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge