

APPEAL NO. 022198
FILED OCTOBER 21, 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 July 26, 2002. With respect to the single issue before her, the hearing officer determined that the compensable injury of _____, a left calcaneal fracture, extends to and includes atrial fibrillation but does not extend to hyperthyroidism. In its appeal, the appellant (carrier) asserts error in the determination that the compensable injury extends to and includes atrial fibrillation. In his response, the respondent (claimant) urges affirmance. The claimant did not appeal the determination that his compensable injury does not include hyperthyroidism and that determination has, therefore, become final under Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury includes atrial fibrillation. That issue presented a question of fact for the hearing officer. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer's finding of fact in support of her legal conclusion is internally inconsistent. Specifically, Finding of Fact No. 3 states that "[t]he surgery brought on the atrial fibrillation but it was not the cause of the condition." However, after carefully reviewing the hearing officer's decision and the evidence, we believe that the hearing officer determined that the surgery was a producing cause of the atrial fibrillation. Thus, the question becomes one of whether the evidence is sufficient to support that determination. Dr. M, the claimant's treating doctor provided the following causation opinion:

when [claimant] sustained a calcaneal fracture, obviously the stress of surgery, anesthesia, and the fear of surgery and anesthesia triggered him to have an atrial fibrillation, which is rare to trigger after a simple ankle surgery. However, having a pre-existing condition of [G]raves disease or even hypothyroidism, an atrial fibrillation is of higher incidence in this patient population.

Because this stress started from a workers' comp injury for calcaneal fracture, which led to surgery and anesthesia, led him to develop atrial fibrillation. Therefore, the pre-existing condition was [G]raves disease hypothyroidism, but the atrial fibrillation resulted from his calcaneal fracture, which was work-related. Therefore, I definitely believe that the atrial fibrillation would not have happened if he did not have a

calcaneal fracture. There is a medical reason and probability that [claimant] required [sic should be acquired] atrial fibrillation as a result of ankle surgery, secondary to the stress, not because of the calcaneal fracture obviously.

Dr. J, who followed the claimant during his hospitalization for the atrial fibrillation opined that the atrial fibrillation "most likely is the result of surgical stress" and that "the patient has new onset of atrial fibrillation, most likely secondary to aggravation of hyperthyroidism secondary to surgical stress." That evidence is sufficient to support the determination that the surgery, which was reasonable and necessary medical treatment for the claimant's compensable injury, was a producing cause of the claimant's atrial fibrillation. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). As such, the hearing officer did not err in determining that the atrial fibrillation was part of the compensable injury as it is well-settled that "where disability results from medical treatment instituted to cure or relieve an employee from the effects of his injury, it is regarded as having been proximately caused by the injury and is compensable." Hartford Accident & Indem. Co. v. Thurmond, 527 S.W.2d 180, 190 (Tex. Civ. App.-Corpus Christi 1975, writ ref'd n.r.e.).

The carrier also argues that atrial fibrillation is not an "injury" within the meaning of the 1989 Act as opposed to a symptom. Dorland's Illustrated Medical Dictionary, 28th edition, defines atrial fibrillation as "an arrhythmia . . . causing a totally irregular, often rapid ventricular rate." An article admitted in evidence by the claimant explained that if the heart beats too rapidly, the heart does not have sufficient time to fill up with blood between beats and cardiac output is significantly reduced. With this understanding of what atrial fibrillation is, we cannot agree with the carrier's assertion that atrial fibrillation is not an injury within the meaning of the 1989 Act. Section 401.011(26) defines injury, in relevant part, as "damage or harm to the physical structure of the body." We believe that definition is sufficiently broad to encompass the condition of atrial fibrillation.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for Petrosurance Casualty Company, an impaired carrier and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Margaret L. Turner
Appeals Judge