APPEAL NO. 022281
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 August 1, 2002. Texas Workers' Compensation Commission Appeal No. 022280, decided October 21, 2002, is a companion case involving the same parties and an injury of _____ (the April 1994 injury). In this case, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____ (the September 1994 injury); that the claimant did not timely report an injury to the employer (as required by Section 409.001) and did not have good cause for failing to do so; and that the claimant has not had disability (for the September 1994 injury).

The claimant appealed, raising a number of allegations, including that he had timely reported his claimed injury; that the employer had failed to report the injury to the respondent (carrier); that he had disability from June 1, 1995, through December 30, 1996; that certain documentary evidence was objected to by the claimant; and other matters not at issue in this case. The carrier responds, urging affirmance.

DECISION

Affirmed.

First, we address the claimant's objection to some of the documentary evidence admitted by the hearing officer over the claimant's objection. This evidence consisted of information that the claimant has purchased a separate long-term disability policy with another insurance company on the basis that he was self-employed. To obtain a reversal on the basis of admission or exclusion of evidence, it must be shown that the ruling admitting or excluding the evidence was error and that error was reasonably calculated to cause and probably did cause rendition of an improper judgment. Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). It has also been stated that reversible error is not ordinarily shown in connection with rulings on questions of evidence unless the whole case turns on the particular evidence admitted or excluded. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We conclude that the claimant has not shown that the error, if any, in admitting the evidence amounted to reversible error.

In Appeal No. 022280, *supra*, we commented that we do not normally consider evidence submitted for the first time on appeal and gave some background information.

The hearing officer in this case determined that the claimant had not sustained a new compensable repetitive trauma injury on (alleged date of injury); that timely notice had not been given, the claimant's testimony to the contrary notwithstanding; and that with no compensable injury, the claimant did not have disability. We do note that in Appeal No. 022280, the hearing officer found a compensable repetitive trauma injury to

the right shoulder and arm and that the claimant had disability. Our affirmance of the hearing officer's decision in this case does not in any way change the hearing officer's decision on compensability of the right shoulder and arm injury as found in the companion case.

We have reviewed the complained-of determinations and conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Michael B. McShane
Appeals Judge

_____
Margaret L. Turner
Appeals Judge