APPEAL NO. 022357
FILED OCTOBER 23, 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 13, 2002. The hearing officer determined that the compensable injury sustained by the appellant (claimant) on _____, includes headaches, but does not include severe brain damage, or severe memory loss and impaired function of the frontal lobe of the brain. On appeal, the claimant expresses disagreement with this determination as it related to the excluded conditions. The respondent (self-insured) urges affirmance.

DECISION

We affirm.

In deciding whether the hearing officer's decision is sufficiently supported by the evidence we will only consider the evidence admitted at the hearing. We will not generally consider evidence that was not submitted into the record and raised for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that case be remanded for further consideration, we consider whether it came to the appellant's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). We do not find that to be the case with the information that the claimant attached to his request for review and, consequently, we will not consider it on appeal.

The claimant asserts that the hearing officer erred in admitting Self-Insured's Exhibit No. 2, a peer review report, because it was not timely exchanged. At the hearing, the claimant objected to this report on the grounds that the peer report doctor had not examined the claimant and that the self-insured had not exchanged the report. The record reflects that when the hearing officer inquired as to whether the document had been previously exchanged, both the claimant and the self-insured indicated that it had. We find no abuse of discretion in the hearing officer's admission of the document.

We have reviewed the complained-of determinations and conclude that the extent-of-injury issue involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is 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).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier (self-insured) is **(Self – Insured Governmental Entity)** and the name and address of its registered agent for service of process is

SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Judy L. S. Barnes
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

_____
Philip F. O'Neill
Appeals Judge