

APPEAL NO. 022547
FILED NOVEMBER 7, 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 September 19, 2002. The hearing officer determined that the claimant was not entitled to reimbursement for travel expenses to her doctor because medical care was reasonably available within 20 miles of her residence.

The claimant has appealed this determination. As part of the appeal, the claimant asserts that the hearing officer abused her discretion in not admitting certain documents relating to information on distances, which was downloaded from the internet and not produced until the end of the CCH. The carrier argues that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

We cannot agree that there was an abuse of discretion in not admitting exhibits that the claimant conceded had been downloaded from the internet the morning of the CCH, never exchanged, and which were responsive to an exhibit of the carrier's. It is not accurate to characterize such information as not in existence until printed up; such information exists in "cyberspace" and could have been timely produced, especially when responsive to an exchanged exhibit of the carrier.

In considering whether the hearing officer erred in not allowing reimbursement for travel, it is important to point out that the right to such reimbursement is not in a specific statute but a rule of the Texas Workers' Compensation Commission (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6)), construing same as a medical benefit. Rule 134.6(b) sets out that the claimant is entitled to such travel reimbursement only when medical treatment for the injury is not reasonably available within 20 miles of the residence. The hearing officer may conclude that telephoning a handful of doctors in the area does not make the case for medical treatment not being available within the 20-mile limit. We agree that travel to a doctor recommended by one's attorney can be a relevant consideration in evaluating whether an injured worker has made efforts to ascertain the availability of medical care within the 20-mile limit.

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.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

GARY SUDOL
9330 LBJ FREEWAY SUITE 1200
DALLAS, TEXAS 75243.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge