APPEAL NO. 031647
FILED AUGUST 6, 2003

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 May 22, 2003. The hearing officer determined that the appellant (claimant) is not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. M.

The claimant appeals, contending that no doctor is willing to see him as a new patient after he has had surgery performed by Dr. M. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable disc herniation at L4-5. The claimant treated with some chiropractors and eventually was referred to Dr. M for surgery in a city about 285 miles away from the claimant's residence. How much effort was made to find a surgeon within 20 miles of the claimant's residence is in dispute, but it is relatively undisputed that the claimant relied heavily on the treating chiropractor in seeking a referral for the recommended surgery. The claimant had spinal surgery, which included fusion, cages, and pins on December 2, 2002, by Dr. M. The claimant now seeks reimbursement for follow-up medical care from Dr. M, contending that none of the doctors in his local area will treat him for follow-up care after the surgery.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6) provides that, when it becomes reasonably necessary for an injured employee to travel in order to obtain appropriate and necessary medical care for the injured employee's compensable injury, the reasonable cost shall be paid by the insurance carrier, and that reimbursement shall be based on guidelines which include that if the mileage shall be greater than 20 miles, one way, the injured employee is entitled to travel reimbursement.

The hearing officer found that there were other orthopedic facilities that were available to provide the claimant's orthopedic care closer than Dr. M and that it was not reasonably necessary for the claimant to travel to Dr. M, 285 miles away, in order to obtain appropriate and necessary medical care for his compensable injury. The hearing officer concluded that the claimant was not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. M.

The Appeals Panel has stated that the question of whether the employee had demonstrated entitlement to reimbursement for travel expenses under Rule 134.6 was a question of fact for the hearing officer and that the claimant had the burden of proof on

that issue. Texas Workers' Compensation Commission Appeal No. 000467, decided April 14, 2000. We have reviewed the complained-of determination and conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong of 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 is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

HAROLD FISHER, PRESIDENT
3420 EXECUTIVE CENTER DRIVE, SUITE 200
AUSTIN, TEXAS 78731.

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Thomas A. Knapp
Appeals Judge

CONCUR:

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Chris Cowan
Appeals Judge

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Margaret L. Turner
Appeals Judge