

APPEAL NO. 032075  
FILED SEPTEMBER 22, 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 July 9, 2003. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_ includes depression. The appellant (carrier) appealed the hearing officer's determination that the claimant's compensable injury includes depression. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. The sole issue before the hearing officer was whether the claimant's compensable injury extended to include an injury of depression. The Appeals Panel observed in Texas Workers' Compensation Commission Appeal No. 961449, decided September 9, 1996, that the fact that there may be more than one cause of the claimant's psychological condition does not preclude a finding of compensability, provided that there is a causal connection between the compensable injury and the claimant's psychological problems. *Compare* Texas Workers' Compensation Commission Appeal No. 950749, decided June 21, 1995, (protracted dispute resolution process does not make resultant stress part of the compensable injury). The causal connection here is met by the fact that the injury resulted in chronic pain and loss of function. The hearing officer noted that the medical evidence established a causal connection between the chronic pain and the claimant's depression.

The carrier contends on appeal that expert evidence in this case was not sufficient to support the extent-of-injury determination. As the Appeals Panel stated in Texas Workers' Compensation Commission Appeal No. 000651, decided April 11, 2000, we are not saying Merrell Dow Pharmaceuticals, Inc. v. Havner, 953 S.W.2d 706 (Tex. 1997), cert denied 523 U.S. 1119, cited by the carrier, has no place in a workers' compensation proceeding; it can be used by the hearing officer to evaluate the evidence and to assess the weight and credibility he or she will assign thereto. The reliability, weight, and relevance of such evidence rests solely with the hearing officer, and we will reverse a factual determination of a hearing officer only if that determination is against the great weight of the evidence.

Extent of injury is question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. There was conflicting evidence on the issue. Section 410.165(a) provided that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and determine what fact had been established. Garza v. Commercial

Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse the hearing officer's decision on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for Legion Insurance 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.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge