

APPEAL NO. 032161
FILED SEPTEMBER 24, 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 (CCH) was held on July 29, 2003. The hearing officer resolved the disputed issue by deciding that the claimant is not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. L, for the dates November 25, 2002, February 3, 2003, and February 19, 2003. The claimant appealed the hearing officer's travel reimbursement determination essentially on sufficiency of the evidence grounds, and asserted that her medical treatment was necessary. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right shoulder injury in the course and scope of employment with the employer on _____. The claimant's treating doctor, Dr. L, referred the claimant to Dr. D in (city 1), Texas, which was about 100.02 miles away from the claimant's residence. The claimant argued that Dr. D recommended surgery, rather than exercises, to improve her upper extremity condition. The claimant seeks reimbursement of travel expenses for medical treatment from Dr. D, contending, in effect, that none of the doctors in her local area have provided adequate medical treatment to her upper extremity.

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 medical treatment for the claimant's compensable right shoulder injury of _____, was reasonably available within 20 miles of the claimant's residence in (city 2), Texas, at the time the claimant was referred by Dr. L to Dr. D in (city 1), Texas, noting that the claimant failed to meet her burden of proof on the disputed issue. The hearing officer concluded that the claimant was not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. L for the dates of November 25, 2002, February 3, 2003, and February 19, 2003.

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 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 is **THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge