

APPEAL NO. 032665
FILED NOVEMBER 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 was held on September 10, 2003. The hearing officer determined that the respondent's (claimant) compensable (thoracic outlet syndrome) injury extends to include depressive disorder and panic disorder without agoraphobia.

The appellant (carrier) appealed on a sufficiency of the evidence basis and argued that the hearing officer misapplied the applicable Appeals Panel authority to the facts of the case. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant sustained a compensable injury on _____, while she was inspecting o-rings. On April 1, 2002, the treating doctor, Dr. G, referred the claimant to Dr. W, a psychologist, who felt the psychological conditions were related to her compensable injury. Dr. W's associate, Dr. S, diagnosed the claimant with major depressive disorder, single episode and panic disorder without agoraphobia. The carrier's required medical examiner, Dr. D, opined that the claimant's psychological conditions were related to the compensable injury as well. The carrier argues that the hearing officer improperly relied on Texas Workers' Compensation Commission Appeal No. 961449, decided September 9, 1996, which is often cited for the principle that the fact that there may be more than one cause of a 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. The carrier argues that the hearing officer should have relied instead on Texas Workers' Compensation Commission Appeal No. 992149, decided November 15, 1999, which stands for the proposition that a psychological condition can be found compensable only if it is a result of the original compensable injury as opposed to those arising from the claimant's *circumstances* following the injury. The carrier asserts that the claimant's depression was brought on by the cessation of her workers' compensation benefits. In reliance on Appeal No. 961449, *supra*, the hearing officer said in his Statement of the Evidence, "[w]hile the timing of the formal referral for a psychological evaluation with the zero percent impairment rating raises an appearance that this difficulty with the workers' compensation system, and not the chronic pain, was the cause of the depression and panic disorder, such a conclusion is not compelled. The depression and panic disorders need only be a natural result of the physical injury.... They did not derive solely from this event in the workers' compensation system." The hearing officer also said, "I am persuaded by the opinions of [Dr. S] and [Dr. D] that the Claimant's psychological conditions were the natural result of her compensable physical injury of _____."

The Appeals Panel has held that the question of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **FIREMAN'S FUND INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER
1999 BRYAN STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge