

APPEAL NO. 033322
FILED FEBRUARY 9, 2004

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 December 2, 2003. The hearing officer determined that the respondent's (claimant) _____, compensable injury extends to and includes an injury to her cervical spine with radiculopathy, head contusion, right knee contusion and possible left knee ACL damage with aggravation of the preexisting degenerative arthritis, as well as the prior accepted claimed injuries; that the need for a total left knee replacement is under the jurisdiction of the Texas Workers' Compensation Commission (Commission) Medical Review Division; and that the appellant (carrier) has not waived the right to dispute compensability of the claimed injury by not contesting the injury in accordance with Sections 409.021 and 409.022. The carrier appeals the extent-of-injury determination on sufficiency of the evidence grounds, and further asserts that the hearing officer erred in failing to determine whether or not the claimant needs a total left knee replacement due to the compensable injury. The claimant did not respond to the appeal. The hearing officer's determination regarding waiver has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. At issue was the exact nature and extent of that injury. The claimant, who worked for a bank, testified that she sustained her injuries when she tripped over a box while carrying a cash drawer in both arms. The claimant testified that she fell forward striking her head on the teller counter, and then fell to the floor striking her right shoulder and right knee. The claimant believed that she twisted her left knee during the fall because she was unable to straighten it out when the emergency crew placed her on the backboard. Medical records from the emergency room indicate injuries to her head, neck, bilateral knees, and complaints of pain to her bilateral shoulders. Extensive and conflicting medical records were made part of the record in this matter.

The hearing officer did not err in determining that the claimant's compensable injury does extend to and include the above-mentioned body parts and injuries. Extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The medical evidence regarding the exact nature of the claimant's _____, compensable injury was in conflict. Although the carrier presented medical evidence which was contrary to the evidence presented by the claimant in support of her position, it was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701,

702 (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, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). We conclude that the hearing officer's findings of fact in this regard are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Finally, the carrier asserts that the hearing officer erred in failing to determine the issue of whether the condition for which a total left knee replacement has been suggested is part of her compensable injury. We cannot agree. The hearing officer resolved that issue by determining that the degenerative condition was compensable and we have affirmed. The determination of what "health care is reasonably required by the nature of the injury" is a matter for the Medical Review Division of the Commission. Section 413.031(a); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.305 (Rule 133.305).

We affirm the decision and order of the hearing officer.

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

**NICHOLAS PETERS
1208 NORTH CENTRAL EXPRESSWAY, SUITE 100
DALLAS, TEXAS 75243.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge