

APPEAL NO. 040009
FILED FEBRUARY 25, 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 1, 2003. The hearing officer determined that because appellant (claimant) has not shown by a preponderance of the evidence that the incident at work accelerated the underlying pathology of a diabetic condition, or that the diabetic condition is a result naturally flowing from the _____, incident at work, the diabetic condition has not become part of the compensable injury. Claimant appeals this determination on sufficiency of the evidence grounds. Respondent (carrier) urges affirmance.

DECISION

We affirm in part and reverse and render in part.

It is undisputed that claimant sustained a compensable injury on _____, and that he had been diagnosed with diabetes prior to that date. As a result of the compensable injury, claimant testified that he has had multiple surgeries, including two hernia surgeries, hand surgery, cervical surgery, back surgery, and surgery to control infections he developed as a result of the medical treatment he has undergone for the compensable injury. The record reflects that prior to the date of the compensable injury, claimant's diabetic condition was controlled through the use of oral medication.

Seven doctors submitted opinions on the disputed issue. Dr. D stated that, "It is a well known fact that severe emotional trauma, chronic pain, and use of certain medication-in [claimant's] case, steroids-can and does have a profound affect [sic] on an individual with diabetes. . . . [Claimant's] steroid treatment can cause his diabetes to become uncontrolled." Dr. T examined claimant at the request of the carrier. Dr. T noted that since the compensable injury, claimant has become insulin dependent. Dr. T noted that claimant's diabetic condition has been intermittently aggravated due to the treatment for the compensable injury. Dr. T identified steroid usage and infection as factors which could intermittently aggravate claimant's diabetic condition. Dr. B stated that, "[Claimant's] blood glucose levels are exacerbated by pain and this has resulted in a need for insulin to control his diabetes." Dr. B notes that prior to the injury, claimant was without pain and he was able to manage his diabetes with oral medication. Dr. G examined claimant at the request of the Texas Workers' Compensation Commission. Dr. G concluded that, "As a result of the work related injury the [claimant] will need diabetes medications, supplies, UTI medication and pain medication and possibly psychiatric evaluation due to anxiety and depression." Dr. M reported that, "[t]ransient stress causes increase in blood glucose and can make the diabetes go out of control. Since this patient has ongoing stress due to his injury causing changes in lifestyle, including self catheterization and his perception of the continuous possibility of recurrent infections . . . he will have ongoing potential for poor glucose control." Dr. E did a peer

review for the carrier, and it was his opinion that the compensable injury neither caused nor aggravated claimant's diabetic condition. Dr. E opined that claimant was experiencing the natural progression of an ordinary disease of life. Dr. X examined claimant at the request of the carrier. Dr. X indicated that he did not believe the diabetic condition is related to the compensable injury.

Because it is undisputed that claimant was diagnosed with diabetes prior to sustaining his compensable injury on _____, we affirm the hearing officer's determination that the compensable injury did not accelerate the underlying pathology of the diabetic condition. However, our inquiry does not stop there. The issue at the hearing included whether there has been an aggravation of the diabetes as a result of the compensable injury. The hearing officer found as fact that the "[c]laimant had temporary aggravations of his diabetic symptoms that are related to the treatment for the injuries of _____" We have held that an aggravation of an ordinary disease of life may result in a compensable injury even though its effects are only temporary. See Texas Workers' Compensation Commission Appeal No. 960753, decided May 30, 1996; Texas Workers' Compensation Commission Appeal No. 951044, decided August 14, 1995. The evidence reflects, and it is clear that the hearing officer believed, that claimant has suffered from temporary aggravations of his diabetic condition due to his compensable injury. The hearing officer did not specifically address the compensability of the temporary aggravations. We hold that those temporary aggravations are compensable.

We affirm that part of the hearing officer's decision and order in which he found that claimant's underlying condition of diabetes did not naturally flow from the compensable injury. We affirm the hearing officer's determination that claimant had temporary aggravations of his diabetic symptoms. We render a decision that claimant has sustained temporary aggravations to his diabetic condition as a result of the compensable injury, which are compensable.

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

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge