

APPEAL NO. 040505
FILED APRIL 7, 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 (CCH) was held on February 9, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable left index finger injury, on _____, and that the claimant had disability from November 12 through November 20, 2003, and from November 22, 2003, through January 6, 2004. The injury determination has not been appealed and has become final pursuant to Section 410.169.

The appellant (self-insured) (or carrier as appropriate) appeals the disability issue contending that the "claimant's disability [defined in Section 401.011(16)] is legally not the result of the needle stick" and that it was the claimant's choice to begin preventative medications which resulted in the claimant's lost time from work. The claimant responds, urging affirmance.

DECISION

Affirmed.

The background facts are not in dispute. The claimant, a corrections officer at one of the self-insured's facilities, sustained a needle stick in his left index finger from a tattooing needle while conducting a cell search. The claimant was treated for the needle stick with an antiseptic solution, band-aid, and a tetanus shot. Because of concern that the tattoo needle had been used on an inmate who was HIV and/or hepatitis-B positive the claimant began a course of treatment with certain anti-HIV medication. The claimant developed an adverse reaction to the anti-HIV medication resulting in the claimed lost time from work. The hearing officer found that the claimed lost time was due to the compensable left index finger injury.

The self-insured seeks to redefine the issue as being whether the claimant's sickness was "naturally resulting" from the needle stick and whether the anti-HIV medication was "proper or necessary treatment" for the compensable injury. The gist of the self-insured's argument is that only treatment for the needle stick was compensable and that taking the preventative medication was the claimant's choice to possibly prevent an occupational disease. As the claimant pointed out at the CCH, the carrier accepted as "basic treatment" of the compensable needle stick, application of the antiseptic solution and the tetanus shot, neither of which was actually required for the needle stick but both of which were preventive measures to preclude more serious consequences. We fail to see the distinction between the accepted tetanus shot and the anti-HIV medication, both are preventive measures taken as a result of the compensable injury.

We have reviewed the complained of determination and conclude that the hearing officer did not err in his application of the law. We further 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).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
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For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
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AUSTIN, TEXAS 78711-3777.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge