

APPEAL NO. 041832  
FILED SEPTEMBER 10, 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 June 28, 2004. The hearing officer determined that the compensable injury of \_\_\_\_\_, extends to and includes left upper extremity reflex sympathetic dystrophy (RSD), pain and depression, but it does not include gout, hypertension, sleeping problems, asthma, bronchitis, staphylococcus infections, arsenic poisoning, migraines, and headaches. The appellant (claimant) appeals the hearing officer's adverse determinations on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance. The hearing officer's extent-of-injury determination regarding left upper extremity RSD, pain and depression was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The claimant attached additional documentation to his appeal which would purportedly show that the compensable injury of \_\_\_\_\_, extends to include the appealed conditions. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the additional documentation is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The hearing officer did not err in determining that the compensable injury does not include gout, hypertension, sleeping problems, asthma, bronchitis, staphylococcus infections, arsenic poisoning, migraines, and headaches. This determination involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the 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 decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Reliance National Indemnity Company**, an **impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR  
9120 BURNET ROAD  
AUSTIN, TEXAS 78758.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge