

APPEAL NO. 101280  
FILED NOVEMBER 8, 2010

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 August 11, 2010. The hearing officer resolved the disputed issue by deciding that the compensable injury of \_\_\_\_\_, extends to a non-displaced tear of the anterior/superior acetabular labrum, a small 4 mm adjacent juxtalabral cyst of the left hip and a broad central disc protrusion at L5-S1. The appellant (carrier) appealed, disputing the hearing officer's determination of extent of injury. The respondent (claimant) responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. See Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). That portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a non-displaced tear of the anterior/superior acetabular labrum and a broad central disc protrusion at L5-S1 is supported by sufficient evidence and is affirmed.

The claimant testified that she was a nurse and that she injured her back on \_\_\_\_\_, while attempting to position an obese patient. The claimant received physical therapy for her back injury. In evidence is a medical record from a doctor who treated the claimant which noted that the claimant was in a physical therapy session to treat her low back pain where they manipulated her hip with such force that it caused a burning sensation to begin into her thigh. The doctor further noted that this was the start of the hip injury and that since she was only in physical therapy to treat her lower back this injury is related to her original injury. The claimant had an MRI of her low back on January 10, 2009, which gave as an impression L5-S1 broad central to left lateral disc protrusion. In evidence is the claimant's left hip MRI which is dated October 26, 2009, which lists the dominant finding as "the presence of abnormal gadolinium signal and T2 hyperintensity tracking within the anterior/superior acetabular labrum. This appearance is consistent with a non-displaced labral tear measuring approximately 1 cm in length." The reason for the MRI was stated to be a non-displaced tear of the anterior/superior acetabular labrum and a small 4 mm adjacent juxtalabral cyst of the left hip.

The hearing officer found in an unappealed finding that (Dr. M) was appointed as a designated doctor to determine the extent of the claimant's compensable injury. Dr. M examined the claimant on April 13, 2010. Dr. M opined that the extent of the claimant's injury was a lumbar strain, which may have transiently caused some radicular complaints. Further, Dr. M stated that "[t]he mechanism of the injury is not one that one would expect to have an acute labral tear, nor did she have any pain referable to the hip initially that one would expect with an acute labral tear." Dr. M did not comment on whether or not physical therapy may have caused the labral tear diagnosed in the claimant's left hip. The hearing officer was persuaded that Dr. M's determination on extent of injury is contrary to the preponderance of the evidence.

As previously noted, that portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a non-displaced tear of the anterior/superior acetabular labrum and a broad central disc protrusion at L5-S1 is supported by sufficient evidence and is affirmed. However, the conclusion that a lifting incident or physical therapy would cause a small 4 mm adjacent juxtalabral cyst of the left hip is beyond common experience or knowledge and in this specific unusual situation would require expert medical evidence. See generally, Guevara v. Ferrer, 247 S.W.3d 662 (Tex. 2007). Other than statements from the claimant's treating doctor and his colleague opining that the claimant's left hip injuries generally are caused by the incident of \_\_\_\_\_, no medical evidence was presented to link the claimant's specific diagnosis of a small 4 mm adjacent juxtalabral cyst of the left hip to the compensable injury. Given the facts of this case, the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a small 4 mm adjacent juxtalabral cyst of the left hip is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse that portion the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a small 4 mm adjacent juxtalabral cyst of the left hip and render a new decision that the compensable injury of \_\_\_\_\_, does not extend to a small 4 mm adjacent juxtalabral cyst of the left hip.

## **SUMMARY**

We affirm that portion of the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a non-displaced tear of the anterior/superior acetabular labrum and a broad central disc protrusion at L5-S1.

We reverse the hearing officer's determination that the compensable injury of \_\_\_\_\_, extends to a small 4 mm adjacent juxtalabral cyst of the left hip and render a new decision that the compensable injury of \_\_\_\_\_, does not extend to a small 4 mm adjacent juxtalabral cyst of the left hip.

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

**CORPORATION SERVICE COMPANY  
211 EAST 7TH STREET, SUITE 620  
AUSTIN, TEXAS 78701-3232.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Cynthia A. Brown  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge