

APPEAL NO. 132953  
FILED FEBRUARY 24, 2014

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 November 14, 2013, with the record closing on October 17, 2013, in [City], Texas, with [hearing officer] presiding as the hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [date of injury], extends to a right leg/thigh sprain/strain and L4-5 disc protrusion with central stenosis; and (2) the compensable injury of [date of injury], does not extend to a lumbar sprain. The appellant (carrier) appeals the hearing officer's determinations that the compensable injury extends to a right leg/thigh sprain/strain and L4-5 disc protrusion with central stenosis, contending that there was insufficient evidence to establish the causation of those determinations or that the conditions at issue exist. The appeal file does not contain a response from the respondent (claimant). The hearing officer's determination that the compensable injury does not extend to a lumbar sprain was not appealed and has become final pursuant to Section 410.169.

**DECISION**

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury in the form of a grade 1 lumbar strain on [date of injury], and that the Texas Department of Insurance, Division of Workers' Compensation-selected designated doctor to determine the extent of the compensable injury is [Dr. L]. The claimant, a food service production supervisor at a correctional facility, testified that she slipped on cooked navy beans and landed in a split position with her right leg in front and her left leg behind. The claimant further testified that she felt something pull on the right side from her lower back to her toe when she hit the ground.

**RIGHT LEG/THIGH SPRAIN/STRAIN**

The hearing officer's determination that the compensable injury of [date of injury], extends to a right leg/thigh sprain/strain is supported by sufficient evidence and is affirmed.

## **L4-5 DISC PROTRUSION WITH CENTRAL STENOSIS**

The hearing officer also determined that the compensable injury of [date of injury], extends to an L4-5 disc protrusion with central stenosis.

The Texas courts have long established the general rule that “expert testimony is necessary to establish causation as to medical conditions outside the common knowledge and experience” of the fact finder. *Guevara v. Ferrer*, 247 S.W.3d 662 (Tex. 2007). The Appeals Panel has previously held that proof of causation must be established to a reasonable medical probability by expert evidence where the subject is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Appeals Panel Decision 022301, decided October 23, 2002. See also *City of Laredo v. Garza*, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing *Guevara*. An L4-5 disc protrusion with central stenosis is outside the scope of common knowledge and experience and requires expert medical evidence to establish causation.

While [Dr. Q] diagnoses the claimant with herniated lumbar discs, nowhere in evidence does he diagnose her with the L4-5 disc protrusion with central stenosis that is in dispute, or provide any opinion regarding causation. Though multiple doctors mention in their reports that they reviewed records from [Dr. R] and the hearing officer discusses Dr. R in the decision and order, there are no reports from Dr. R in evidence.

The only doctor that diagnoses the L4-5 disc protrusion with central stenosis and opines regarding the extent of the compensable injury is the designated doctor, Dr. L. In a report dated July 31, 2013, after discussing a degenerative slip at L4-5, Dr. L states that “[i]t was my impression, based on her lack of symptoms and complaints prior to the accident and the fairly severe stenosis that was present at L4-5, that there was an acute herniation or protrusion that exacerbated the pre-existing degenerative changes, resulting in her onset of back pain and right lower extremity complaints.” At the end of that report, Dr. L diagnoses the condition at issue and then states that “[i]n my opinion, the [claimant’s] extent of injury should consist of the disc protrusion at L4-5, which occurred in the presence of pre-existing degenerative changes and have left her with chronic back pain. . . .” Though Dr. L was appointed on the issue of extent of injury for the examination on July 31, 2013, the above opinions do not discuss how the mechanism of injury caused the L4-5 disc protrusion with central stenosis.

There is one other report in evidence from Dr. L, dated February 6, 2013, which similarly discusses his opinion on the compensable injury. Dr. L diagnoses the condition at issue and then states that “[i]t is my impression based on her lack of symptoms and complaints prior to the accident, and the fairly severe stenosis that is present at L4-5, that there was an acute herniation and protrusion that exacerbated the

pre-existing degenerative changes resulting in her right lower extremity complaints.” Again, Dr. L does not address how the mechanism of injury caused the L4-5 disc protrusion with central stenosis.

There is nothing in evidence that provides an explanation of how the [date of injury], mechanism of injury caused the L4-5 disc protrusion with central stenosis. Accordingly, we reverse the hearing officer’s determination that the compensable injury of [date of injury], extends to an L4-5 disc protrusion with central stenosis, and render a new decision that that the compensable injury of [date of injury], does not extend to an L4-5 disc protrusion with central stenosis.

### **SUMMARY**

We affirm the hearing officer’s determination that the compensable injury of [date of injury], does extend to a right leg/thigh sprain/strain.

We reverse the hearing officer’s determination that the compensable injury of [date of injury], does extend to an L4-5 disc protrusion with central stenosis, and render a new decision that that the compensable injury of [date of injury], does not extend to an L4-5 disc protrusion with central stenosis.

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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Tracey T. Guerra  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge