

APPEAL NO. 142159
FILED DECEMBER 15, 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 September 11, 2014, in San Antonio, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issue by deciding that the compensable injury of [Date of Injury], extends to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis. The appellant (carrier) appeals the hearing officer's determination of the extent of injury, contending that there is insufficient expert medical evidence of causation to prove the compensability of the extent conditions in dispute. The appeal file does not contain a response from the respondent (claimant).

DECISION

Reversed and rendered.

The parties stipulated that the claimant sustained a compensable injury on [Date of Injury], in the form of a laceration to the left knee and chin when she tripped and fell down a flight of stairs.

EXTENT OF INJURY

The hearing officer determined that the compensable injury of [Date of Injury], extends to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis.

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. See Appeals Panel Decision (APD) 022301, decided October 23, 2002. See also *Guevara v. Ferrer*, 247 S.W.3d 662 (Tex. 2007). To be probative, expert testimony must be based on reasonable medical probability. *City of Laredo v. Garza*, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing *Insurance Company of North America v. Meyers*, 411 S.W.2d 710, 713 (Tex. 1966).

Under the facts of this case, the claimed conditions require expert evidence to establish a causal connection with the compensable injury. The mere recitation of the claimed conditions in the medical records without attendant explanation of how those conditions may be related to the compensable injury does not establish those conditions are related to the compensable injury within a reasonable degree of medical probability. APD 110054, decided March 21, 2011.

The hearing officer states in the Discussion section of his decision that “[Dr. B] persuasively explained how the compensable injury caused the disputed conditions.” Regarding the disc bulges at L4-5 and L5-S1, in the November 19, 2013, office note in evidence, Dr. B states that the lumbar MRI shows an L4-5 disc bulge and states that “the [claimant’s] mechanism of injury can definitely cause pain in the low back resulting in facet joint pain or SI joint pain, L4-5 and L5-S1 joints.” However, Dr. B does not identify a disc bulge at L5-S1 or explain how the compensable injury caused a bulge at either level. Furthermore, the September 26, 2013, MRI of the lumbar spine lists as the sole impression a mild bulge of the L4-5 disc without focal disc protrusion. The MRI does not list a specific diagnosis of an L5-S1 disc bulge.

Regarding the remaining conditions, Dr. B describes the conditions as “possible” and states that, in his opinion, the mechanism of injury “can” cause pain in these areas. That trauma could cause these diagnoses states no more than a possibility and is not enough to establish a causal connection.

As there are no medical records, including the records from Dr. B, that explain how the injury of [Date of Injury], caused the disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis, we reverse the hearing officer’s determination that the compensable injury of [Date of Injury], extends to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis, and we render a new decision that the compensable injury of [Date of Injury], does not extend to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis.

SUMMARY

We reverse the hearing officer’s determination that the compensable injury of [Date of Injury], extends to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis, and we render a new decision that the compensable injury of [Date of Injury], does not extend to disc bulges at C3-4, C4-5, C5-6, L4-5, L5-S1, and SI joint sclerosis.

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

**CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201.**

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge