

APPEAL NO. 981479

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 March 31, 1998, in (city), Texas, with (hearing officer) presiding as hearing officer. The single issue presented for resolution was: is the compensable injury of (date of injury), a producing cause of the respondent's (claimant) need for psychiatric treatment after December 23, 1995? The hearing officer found both that the (date of injury), injury was a producing cause of the claimant's psychiatric condition and that the claimant's psychiatric condition after December 23, 1995, does not differ from his psychiatric condition prior to that date. She concluded that the (date of injury), compensable injury was a producing cause of the claimant's need for psychiatric treatment after December 23, 1995. The appellant (carrier) appeals this determination, contending that it is against the great weight and preponderance of the evidence. The appeals file contains no response from the claimant.

DECISION

Reversed and a new decision rendered.

In Texas Workers' Compensation Commission Appeal No. 941679, decided February 2, 1995, the Appeals Panel affirmed the determination of this hearing officer that the claimant's "psychiatric problems" were the result of the claimant's compensable injury of (date of injury). The major component of the psychiatric condition has been major depression and anxiety. On December 23, 1995, the claimant was admitted to (hospital) because the day before he took an overdose of a prescription medication, alcohol, Prozac and cocaine "trying to kill himself." The admitting diagnoses included major depression, drug and alcohol dependency, panic disorder, and post-traumatic stress disorder. The claimant was also hospitalized from August 16, 1996, to September 20, 1996, for depression and alcohol dependency. He suffered a work-related knee injury on (subsequent date of injury), for which he had surgery in March 1997. He also had a later hospitalization and was involved in a motor vehicle accident.

Although not a disputed issue, the hearing officer made a specific finding of fact that the "(date of injury), compensable injury is a producing cause of Claimant's psychiatric condition." This finding is a simple reiteration of the hearing officer's prior finding from an earlier CCH which was affirmed in Appeal No. 941679, *supra*. She also found that the "[c]laimant's psychiatric condition after December 23, 1995, does not differ from his psychiatric condition prior to that date." Finding of Fact No. 4. In closing comments, the claimant stated:

And to be honest with you, I really have a hard time understanding why I'm in a CCH, especially when they were ordered to pay for my psychological treatment. And I really think that this is a medical dispute more than it is a

compensateable [sic] problem, because they was already ordered in November of '94 to pay for it. And now they're saying that they shouldn't pay for it.

In Texas Workers' Compensation Commission Appeal No. 981220, decided July 15, 1998, the issue presented was whether the claimant continued to suffer effects from an earlier compensable injury "entitling her to benefits." The injury was had not changed over time. The Appeals Panel found that under these circumstances, "the issue presented is not an extent of injury issue." Rather, "the true nature of the dispute in this case is whether the claimant is entitled to receive medical treatment for her compensable injury," that is, what medical treatment was reasonably required by the nature of the injury. This was a question for the medical review division, not the dispute resolution division of the Texas Workers' Compensation Commission to resolve. See *also* Texas Workers' Compensation Commission Appeal No. 981017, decided July 1, 1998, and Texas Workers' Compensation Commission Appeal No. 981133, decided July 15, 1998, for a similar result. The distinguishing feature about these cases is that the extent of injury was not in issue, nor was the claimant asserting an additional injury as being the result of the original injury. *Compare* Texas Workers' Compensation Commission Appeal No. 981110, decided July 10, 1998, where test results reflected a new condition that was not part of the original injury.

In the case we now consider, the issue was expressly framed in terms of the claimant's need for treatment after December 23, 1995. The benefit review officer also commented, consistent with the claimant's comments at the close of the CCH, that the "carrier's dispute of specific hospitalizations and treatments is an issue for the medical review division." While the mere phrasing of an issue does not necessarily control whether jurisdiction to resolve the dispute lies with the hearings of the medical review division, such phrasing can be helpful in determining what the dispute is really about. As we stated in Appeal No. 981220, *supra*, the question in issue "turns on the nature of the dispute, and more specifically, whether compensability or eligibility for, or the amount of, income or death benefits is at issue." The claimant clearly has a compensable psychological injury for which he is entitled to lifetime medical benefits. Section 408.012. He has received a substantial amount for medical treatment for this injury. There were no compensability or income benefits issues presented for resolution. Under these circumstances, we believe that the true nature of this dispute continues to be whether the additional medical treatment after December 23, 1995, is "reasonably required" to treat his compensable psychological injury. This is a matter reserved for resolution by the medical review division.

We reverse the decision and order of the hearing officer and render a decision that the hearing officer did not have jurisdiction to resolve the issue of whether the claimant's (date of injury), compensable injury is a producing cause of his need for psychiatric treatment after December 23, 1995. The claimant continues to be entitled to lifetime medical benefits for his compensable injury.

Alan C. Ernst
Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Judy L. Stephens
Appeals Judge