

APPEAL NO. 220479
FILED MAY 3, 2022

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 December 14, 2021, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the appellant (claimant) did not sustain a compensable injury on (date of injury); and (2) the claimant did not have disability from April 29, 2021, through the date of the CCH. The claimant appealed the ALJ's determinations of compensability and disability. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Affirmed.

The claimant testified that on the date of the claimed injury there was a heavy workload and they were short of employees. The claimant testified that as he was performing his job duties he felt his back tighten. At issue was whether the claimant sustained a compensable injury on (date of injury), and whether he had disability resulting from the claimed injury.

The ALJ 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. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.—Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error, unless they are 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); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

The ALJ determined the claimant did not sustain a compensable injury on (date of injury), and that the claimant did not have disability from April 29, 2021, through the date of the CCH. The ALJ's determinations are supported by sufficient evidence and are affirmed. However, a decision is being written to address statements made by the ALJ in his discussion.

In his discussion of the evidence, the ALJ noted that the claimant was first seen for this claimed injury at (Clinic) on May 29, 2021. In his appeal, the claimant alleges that he provided medical records that showed his initial medical treatment occurred on April 29, 2021, and that the medical treatment received on May 29, 2021, occurred at CareNow rather than (Clinic).

In evidence is a medical record from (Emergency Department) which diagnosed the claimant with a baker's cyst on April 19, 2021, and work note that stated the claimant had an appointment with an orthopedic specialist on April 27, 2021, without detailing any further information. We note that these records are prior to the alleged date of injury.

The claimant references a work/school note from (Clinic) dated April 29, 2021, that stated the claimant was seen at the clinic on that date and could return to work/school on April 30, 2021, with work restrictions of no lifting over 10 pounds until further notice. However, no diagnosis or examination details were included in the document referenced.

The ALJ noted in his discussion of the evidence that the claimant was first seen for the claimed injury on May 29, 2021. The ALJ was persuaded based on the evidence in the record that the claimant did not seek medical treatment for the claimed injury until May 29, 2021.

The medical record in evidence dated May 29, 2021, identifies the claimant and specifies that the claimant's chief complaint was back pain and referenced the claimant felt pain while lifting heavy boxes at work. The claimant notes in his appeal that the ALJ incorrectly references the medical provider as Concentra rather than CareNow. While the claimant is correct that the ALJ referenced the wrong clinic, the incorrect reference of the clinic name did not cause an improper decision in this case. Under the circumstances of this case, we view the ALJ's statement in his discussion identifying the wrong medical provider as a typographical error that does not affect the outcome of the case. Accordingly, we affirm the ALJ's determinations that the claimant did not sustain a compensable injury on (date of injury), and the claimant did not have disability from April 29, 2021, through the date of the CCH.

The true corporate name of the insurance carrier is **LM INSURANCE CORPORATION** 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 78701-3218.**

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge