

APPEAL NO. 001759

On July 10, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of _____, extends to and includes injuries to his left shoulder, mid-back, and lumbar spine. The appellant (carrier) requests that the hearing officer's decision that the claimant's compensable injury extends to and includes injuries to his lumbar spine and mid-back be reversed and that a decision be rendered that the claimant's compensable injury does not extend to and include injuries to the claimant's lumbar spine and mid-back. The carrier does not appeal that portion of the hearing officer's decision that decides that the claimant's compensable injury extends to and includes an injury to his left shoulder. No response was received from the claimant.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____, when he was involved in a motor vehicle accident (MVA) and that the carrier accepted compensable injuries to the claimant's cervical spine, right shoulder, and bilateral upper extremities. The claimant testified that following the MVA he had lower back pain and shocking sensations in his mid-back area. The emergency room report of _____, does not appear to record low or mid-back problems. The claimant saw Dr. R on July 28, 1999, and Dr. R noted that the claimant had been involved in the MVA on July 12 and that the claimant complained of back pain. The claimant has continued to see Dr. R and Dr. R noted on October 5, 1999, that the claimant complained of lumbar spine and thoracic spine muscle cramps and loss of motion and that physical examination revealed lumbar spine and thoracic spine tenderness and abnormal motion. Among other things, Dr. R diagnosed backache, muscle spasm, and lumbago.

Dr. M reported that the claimant's lumbar MRI of October 21, 1999, appeared to be unremarkable. In January 2000, Dr. R wrote that the claimant has been under his care since July 28, 1999, for injuries sustained in a work-related MVA; that among other things, he has treated the claimant for back pain; and that he feels that the claimant's symptoms are related to his injury. Dr. R referred the claimant to Dr. G, who saw the claimant in March 2000 and diagnosed the claimant as having, among other things, upper thoracic pain secondary to a strain syndrome following the MVA of _____. Dr. P reviewed the claimant's medical records at the carrier's request in March 2000 and wrote that the documentation supports a diagnosis of strain/sprain of the low back.

The hearing officer found that in addition to the cervical spine, right shoulder, and bilateral upper extremities, the claimant sustained damage and harm to his left shoulder, thoracic spine, and lumbar spine in the MVA of _____, and concluded that the claimant's compensable injury of _____, extends to and includes injuries to his left

shoulder, mid-back, and lumbar spine. The carrier contends that the hearing officer's finding and conclusion, in so far as they relate to the claimant's mid-back and lumbar spine, are not supported by any evidence.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Kathleen C. Decker
Appeals Judge