

APPEAL NO. 010944  
FILED JUNE 20, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A spinal surgery contested case hearing was held on April 10, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (carrier) is liable for the recommended spinal surgery. The carrier appealed and the respondent (claimant) responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the carrier is liable for the recommended spinal surgery. The claimant's second opinion doctor concurred with the surgeon's recommendation for spinal surgery and the carrier's second opinion doctor did not. In accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.206(k)(4) (Rule 133.206(k)(4)) the hearing officer gave presumptive weight to the two opinions which had the same result and determined that the carrier is liable for spinal surgery. The report of the claimant's second opinion doctor is a concurrence under Rule 133.206(a)(13).

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge