APPEAL NO. 011303
FILED JULY 17, 2001

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 May 24, 2001. The hearing officer determined that the appellant's (claimant) compensable injury extended to the claimant's left knee which was injured while the claimant was engaged in physical therapy, but that the compensable injury did not extend to the low back. The claimant has appealed the determination as to the low back. The respondent (carrier) submitted a response, urging that the hearing officer's determination as to the low back should be affirmed. The carrier did not appeal the determination of the hearing officer regarding the left knee, and it has become final. Section 410.169.

DECISION

Affirmed.

The claimant disagrees with the hearing officer's decision as to her low back and complains that the discussion during the hearing was focused on her knees and not enough consideration was given to the low back. As to this argument, we need only point out that it was the claimant's burden to prove that the compensable injury extended to her low back, and it was up to her to present evidence at the CCH which would relate to her alleged low back injury. We note that the claimant has attached ten pages of documentation to her appeal; six pages duplicate matters already admitted and considered by the hearing officer. The other four pages are: a radiology report dated October 19, 2000; two pages of "Patient SOAP Notes" from _____ Chiropractic, dated March 16, 2000, and July 7, 2000; and a letter from Dr. W, dated March 15, 2000. Regarding the additional documentation attached to claimant's appeal, there is no evidence why some of those records were presented for the first time on appeal or that they are so material that it would probably produce a different result. *See* standard for remand in Texas Workers' Compensation Commission Appeal No. 93536, decided August 12, 1993, and Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge