

APPEAL NO. 011384  
FILED JULY 25, 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 18, 2001. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant had disability from August 4, 2000, through January 31, 2001. The appellant/cross-respondent (carrier) filed a request for review of the hearing officer's determinations on compensability and disability, and disputed the hearing officer's ruling that documentation was not timely exchanged. The claimant appealed the hearing officer's determination that disability only extended through January 31, 2001. The claimant filed a response to the carrier's appeal. The carrier has filed a response to the claimant's appeal.

DECISION

Affirmed.

The evidence sufficiently supports the hearing officer's determinations. 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 carrier asserts on appeal that the hearing officer's ruling at the CCH in which she excluded the carrier's exhibits because they were not timely exchanged is erroneous. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13 (c) (Rule 142.13(c)) provides that the parties must exchange documentary evidence with each other not later than 15 days after the benefit review conference and, thereafter, as it becomes available. We review a hearing officer's evidentiary rulings under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 92165, decided June 5, 1992. In this instance, the hearing officer found that there was no good cause for the failure to timely exchange the documentation, and the evidence supports that determination. As such, the hearing officer did not abuse her discretion in excluding Carrier's Exhibit Nos. 1 and 2.

The decision and order of the hearing officer are affirmed.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge