

APPEAL NO. 011406
FILED AUGUST 9, 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 was held on March 15, 2001, and May 31, 2001. The record closed on May 31, 2001. The hearing officer determined that appellant (carrier) is liable for spinal surgery related to the _____, injury of the respondent (claimant). Carrier appealed this determination, contending that the Recommendation for Spinal Surgery (TWCC-63) was defective and that the surgery would be impossible to perform. Carrier also challenges certain findings of fact on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determination that carrier is liable for spinal surgery and perceive no legal error in the hearing officer's decision. The hearing officer reviewed the record, applied the law, and decided what facts were established. Regarding whether the TWCC-63 was defective, we note that the preamble to the spinal surgery rule indicates that, "[t]he type of surgical procedure should be concurred upon, i.e. laminectomy, fusion, etc, but the medical decisions regarding approach, number of levels, instrumentation, etc. should be made by the surgeon at the time of the operation." We conclude that the hearing officer's determinations are not 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).

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge