

APPEAL NO. 011527
FILED AUGUST 09, 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 June 4, 2001. With respect to the issues before her, the hearing officer found that the respondent's (claimant) compensable injury was a producing cause of his cerebral embolism and subsequent cerebrovascular accident (CVA). The appellant (carrier) appeals. The claimant has no response in the file.

DECISION

Affirmed.

On _____, the claimant sustained a compensable injury to his back, and he subsequently had two back surgeries. As a consequence of his back surgeries, the claimant was prescribed, and took, Lortab. The claimant developed hemorrhoids as a result of constipation from taking the Lortab and had to have a hemorrhoidectomy, which was accepted and paid for by the carrier as part of the claim. After that surgery, while the claimant was attempting to have a bowel movement, he suffered a cerebral embolism. Dr. B, a neurologist, opined that a complication of the hemorrhoidectomy was pelvic vein thrombosis, and when the claimant strained to have a bowel movement one of the clots dislodged, passing through the claimant's previously undetected atrioseptal defect and into his brain, causing a stroke. Dr. J, an internist, agreed with Dr. B. The carrier's peer review doctor, Dr. H, while disagreeing that the claimant could prove a pelvic venous clot, conceded that their theories were "plausible."

Causation was a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 000088, decided February 28, 2000. Section 410.165(a) provides that the hearing officer, as fact finder, is the sole judge of the weight and credibility to be given the evidence. In the discharge of this responsibility, the hearing officer resolves conflicts and inconsistencies in the medical evidence and judges the weight to be given to expert medical testimony. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this case, the evidence conflicted regarding causation. The hearing officer chose to credit the medical evidence that the compensable injury did cause, or lead to, the claimant's cerebral embolism and subsequent CVA. We have reviewed the record, the briefs on appeal, and the hearing officer's decision and order. We will not reverse the hearing officer's determination in this case because it is not so against the great weight and preponderance of the evidence as to be clearly erroneous and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge