

APPEAL NO. 011544
FILED AUGUST 28, 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 26, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (carrier) is liable for the respondent's (claimant) spinal surgery. The carrier appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the carrier is liable for the claimant's spinal surgery. The claimant's treating doctor recommended that the claimant undergo lumbar spinal surgery. The carrier's second opinion doctor did not agree that surgery is needed. The hearing officer found that the claimant's second opinion doctor agreed with the need for surgery and with the types of procedures proposed by the treating doctor, and concluded that the claimant's second opinion doctor's opinion is a concurrence under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.206(a)(13) (Rule 133.206(a)(13)). We agree with the hearing officer that the report of the claimant's second opinion doctor is a concurrence under Rule 133.206(a)(13). The hearing officer also found that the great weight of the medical evidence is not contrary to the opinions of the treating doctor and the claimant's second opinion doctor. In accordance with 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. We conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE GRAY INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**ROBERT L. WALLACE
1717 EAST LOOP, SUITE 333
HOUSTON, TEXAS, 77029.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge