APPEAL NO. 011697
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 (CCH) was held on June 25, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury, and that the claimant did not have disability. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant submitted two attachments to her appeal. The first is merely a duplicate of an exhibit presented at the CCH and does not warrant further comment. The second attachment, however, consists of charts reflecting the number of decisions in which Texas Workers' Compensation Commission hearing officers ruled in favor of a claimant. This information was not offered or admitted at the CCH. In essence, the documentation amounts to a personal attack upon the hearing officer in this case. We note that we generally will not consider evidence that was not submitted into the record, and which is raised for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that the case be remanded for further consideration, we consider whether it came to the appellant's knowledge after the hearing, whether it was cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). In this case, we readily perceive that the documentation is not relevant or material, and we will not consider it for the first time on appeal.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury and that she did not have disability. 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). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appellate-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Upon review

of the record submitted, we find no reversible error. We will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them to be so in this case.

We affirm the decision and order of the hearing officer.

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

GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge