

APPEAL NO. 011887
FILED SEPTEMBER 12, 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 July 26, 2001. With regard to the only issue before him, the hearing officer determined that the respondent's (claimant) compensable (abdominal) injury of _____ (all dates are 2000 unless otherwise noted) extends to and includes the low back.

The appellant (carrier) appeals, asserting that the hearing officer's decision is against the great weight of the evidence, that the claimant's "testimony is not logical or credible," and that it is "common knowledge" that herniated discs "are associated with immediate pain and symptoms." The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was a laborer, and the parties stipulated that the claimant sustained a compensable groin injury on _____. The claimant reported his injury and was sent to the employer's doctor, who diagnosed a "Strain Left Inguinal" and returned the claimant to light duty. The claimant testified that on the following Monday (apparently _____) he began having back pain at work. The claimant subsequently saw his own doctor, Dr. B, who suggested that the initial assessment may have been focused on the claimant's inguinal/groin pain. Diagnostic testing (MRI and CT scan) indicated a herniated disc at L4-5 with mild impairment of the thecal sac. Two other referral doctors are of the opinion that the claimant's mechanism of injury "is consistent with the patient's injuries."

The carrier emphasizes that the claimant did not immediately complain of back pain, that there were inconsistencies in the claimant's testimony and history given to the doctors, and that it is "common knowledge that traumatically induced disk lesions are associated with immediate pain and symptoms."

We do not necessarily agree with the carrier's contentions, and, in any case, it is the hearing officer who is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true of the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust and we do not

find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

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

**FRANK WEEDON
SHECHY, SERPE & WARE
2500 TWO HOUSTON CENTER
909 FANNIA ST.
HOUSTON, TEXAS 77010.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge