APPEAL NO. 012615
FILED NOVEMBER 29, 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 September 27, 2001. The hearing officer determined that the compensable injury of _____, does not include an injury to the neck; that the appellant (claimant) reached maximum medical improvement (MMI) on December 7, 1999; and that the claimant's impairment rating (IR) is one percent. The claimant appeals the adverse findings, asserting that the evidence is insufficient to support the findings. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The first issue before the hearing officer concerned whether the compensable injury included the neck. We have held that the issue of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision that the claimant did not show by a preponderance of the evidence that the compensable injury includes her neck problems is supported by sufficient evidence. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust, and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The claimant sustained a compensable low back injury on _____. She was treated conservatively at first. A carrier-selected required medical examination doctor certified that the claimant reached MMI on October 29, 1999, with a zero percent IR. The claimant disputed the certification of MMI and the IR. A designated doctor was appointed by the Texas Workers' Compensation Commission (Commission); he certified that the claimant was at MMI on December 7, 1999, with an IR of zero percent (subsequently corrected to one percent, with no change to the MMI date). The claimant continued to treat with various doctors and was recommended for, and had, low back surgery on July 23, 2001.

The report of a Commission-appointed designated doctor certifying MMI and IR is given presumptive weight. Sections 408.122(c) and 408.125(e). A certification of MMI and IR by a designated doctor will be accepted unless the great weight of the other medical evidence is to the contrary. In this case, the hearing officer could determine that it was appropriate to accept the designated doctor's certification of MMI and IR. This tribunal will

not upset 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 or manifestly unjust. Cain, *supra*; In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them so here.

The hearing officer's decision and order are affirmed.

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

CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE I, SUITE 750
AUSTIN, TEXAS 78701.

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge