

APPEAL NO. 020836
FILED MAY 28, 2002

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 March 7, 2002. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) request for spinal surgery should not be approved. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

A surgeon recommended that the claimant have spinal surgery in August 2001. Neither the carrier's second opinion doctor nor the claimant's second opinion doctor concurred with the surgery recommendation. Both second opinion doctors reported that surgery was not indicated. The hearing officer found that the great weight of the other medical evidence is not contrary to the recommendation against spinal surgery by the carrier's second opinion doctor and the claimant's second opinion doctor. The hearing officer determined that the claimant's request for spinal surgery should not be approved. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.206(k)(4) (Rule 133.206(k)(4)). The claimant testified that his second opinion doctor did not examine him. The hearing officer did not find that testimony to be credible in light of the report of the claimant's second opinion doctor which reflected that he did examine the claimant. 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. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge