

APPEAL NO. 021354
FILED JUNE 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on April 25, 2002. The issues involved a 1995 compensable injury and a 2001 compensable injury, and the hearing officer issued a separate decision on each compensable injury. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) does not continue to suffer effects from the _____, compensable injury and that the compensable injury of _____, extends to include the claimant's disc herniation at L4-5. The appellant (self-insured) appealed the decisions and the claimant responded, requesting affirmance.

DECISION

As reformed herein, the hearing officer's decisions are affirmed.

Conflicting evidence was presented on the disputed issues. 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. In essence, the hearing officer determined that the claimant's compensable injury of _____, was an aggravation of a preexisting condition. In Cooper v. St. Paul Fire & Marine Insurance Company, 985 S.W.2d 614 (Tex. App.-Amarillo 1999, no pet.), the court held that "to the extent that the aggravation of a prior injury caused damage or harm to the physical structure of the employee, it can reasonably be said that the resulting condition fell within the literal and plain meaning of 'injury' as defined by the 71st Legislature" and that "the legislature intended the meaning of 'injury' to include the aggravation of preexisting conditions or injuries." See *also* Peterson v. Continental Casualty Company, 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet.), in which the court held that the aggravation of a preexisting condition is a compensable injury for purposes of the 1989 Act. We conclude that the hearing officer's determinations are supported by sufficient evidence and that they are 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).

In several places in the decisions, the hearing officer incorrectly stated the date of the 1995 injury to be _____. We reform the decisions to correct those typographical errors to read _____, which is the stipulated date of the 1995 injury.

The hearing officer's decisions and orders, as reformed herein, are affirmed.

The true corporate name of the insurance carrier is, **A GOVERNMENTAL ENTITY THAT SELF-INSURES, EITHER INDIVIDUALLY OR COLLECTIVELY THROUGH THE TEXAS ASSOCIATION OF SCHOOL BOARDS RISK MANAGEMENT FUND** and the name and address of its registered agent for service of process is

**DC
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge