APPEAL NO. 021552
FILED AUGUST 1, 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 May 29, 2002. The hearing officer determined that (1) the respondent (claimant) had disability from the compensable injury of _____, beginning December 1, 2000, and continuing through June 21, 2001; and (2) consistent with the parties' stipulation, the claimant reached maximum medical improvement (MMI) on June 21, 2001, with an eight percent impairment rating (IR) as certified by a Texas Workers' Compensation Commission-appointed designated doctor. The appellant (self-insured) appeals the disability determination on sufficiency of the evidence grounds. The claimant did not file a response. The hearing officer's MMI/IR determination was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from December 1, 2000, and continuing through June 21, 2001. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The self-insured attached new evidence to its appeal to support its position that the claimant did not have disability for the stated period. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. *See generally* 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). The self-insured did not show that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **SELF INSURED** and the name and address of its registered agent for service of process is

SELF INSURED
CARRIER ADDRESS 1
CITY, TEXAS ZIP.

_____
Philip F. O'Neill
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Susan M. Kelley
Appeals Judge