

APPEAL NO. 021745
FILED AUGUST 12, 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 June 25, 2002. The hearing officer determined that (1) the compensable injury of _____, does not extend to include cervical myelopathy and/or cervical myelomalacia; and (2) the appellant's (claimant) impairment rating (IR) is six percent. The claimant appeals the determinations on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

EXTENT OF INJURY

The hearing officer did not err in determining that the compensable injury of _____, does not extend to include cervical myelopathy and/or cervical myelomalacia. 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 extent-of-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).

In his appeal, the claimant appears to complain of ineffective assistance from the Texas Workers' Compensation Commission's ombudsman in the presentation of evidence. The claimant did not raise this matter at the hearing below, nor does the record reflect that the claimant desired to provide any additional testimony, documentary evidence or argument in support of his claim, which was not provided by the ombudsman. Accordingly, we decline to reverse the hearing officer's decision on this basis.

IR

The hearing officer did not err in determining that the claimant's IR is six percent. The claimant appeals the hearing officer's determination because it does not include a rating for cervical myelopathy and/or cervical myelomalacia. Given our affirmance of the extent-of-injury determination, we likewise affirm the hearing officer's IR determination.

The decision and order of the hearing officer 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
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge