

APPEAL NO. 021872  
FILED SEPTEMBER 10, 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 commenced on June 12, 2002, and concluded on June 27, 2002. The hearing officer determined that the appellant's (claimant) compensable lumbar spine injury does not extend to and include a disk herniation/extrusion at C5-6, that the claimant's impairment rating (IR) is 10%, and that the claimant is not entitled to supplemental income benefits (SIBs) for the first quarter.

The claimant appeals the hearing officer's finding that the credible medical records fail to address an injury to her cervical spine, contending that she had continually complained of neck pain but the treating doctor failed to document the complaints and failed to properly diagnose and treat her. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant, a cafeteria worker, sustained a compensable slip-and-fall injury on \_\_\_\_\_. The parties stipulated that the claimant sustained a compensable lumbar spine injury. When and to whom the claimant complained of neck or cervical pain or a neck injury is disputed. Certainly the claimant's testimony is in conflict. The hearing officer sets out in some detail why she did not believe the claimant's cervical spine was injured in the compensable fall. The hearing officer's determinations on the IR and entitlement to SIBs (whether the claimant has a 15% threshold IR) rest directly on whether the claimant's cervical condition is compensable.

The issue of extent of injury and whether the claimant promptly raised complaints about her cervical injury presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). This is equally true regarding the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As the fact finder, the hearing officer was charged with the responsibility of resolving conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The true corporate name of the insurance carrier is **ZENITH STAR INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ZENITH STAR INSURANCE COMPANY  
NORM C. WINTERS  
1101 CAPITAL OF TEXAS HIGHWAY SOUTH, BUILDING J  
AUSTIN, TEXAS 78746.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Margaret L. Turner  
Appeals Judge