APPEAL NO. 022652
FILED DECEMBER 4, 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 (CCH) was held on September 13, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) was entitled to change treating doctors and that the claimant had disability beginning February 15, 2002, and continuing through the date of the CCH. The appellant (carrier) appeals, arguing that the determinations are not supported by legally sufficient evidence, are not supported by any evidence, and are against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The issues of whether the claimant was entitled to change her treating doctor to Dr. B, and whether and when the claimant had disability presented factual issues for the hearing officer to decide. The parties presented conflicting evidence. The hearing officer was persuaded that the claimant did not seek a change of treating doctors to acquire a medical report and that the relationship between the claimant and her initial treating doctor, Dr. P, had deteriorated. The hearing officer additionally found that the chiropractic care the claimant received from Dr. P was not conducive to her attainment of maximum medical improvement (MMI), demonstrated by the opinion of the designated doctor, who determined the claimant had not reached MMI and recommended further physical therapy. The hearing officer further determined the claimant had disability from February 15, 2002, through the date of the CCH. We find no merit in the carrier's contention that the hearing officer improperly commented on the testimony of Dr. P.

There is sufficient evidence in the record to support the hearing officer's determinations. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust, and we do not find it so in this case.

Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

We affirm the decision and order of the hearing officer.

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

**GARY SUDOL**
**9330 LBJ FREEWAY, SUITE 1200**
**DALLAS, TEXAS 75243**.

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Margaret L. Turner
Appeals Judge

CONCUR:

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Elaine M. Chaney
Appeals Judge

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Gary L. Kilgore
Appeals Judge