

APPEAL NO. 023009  
FILED JANUARY 10, 2003

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 October 30, 2002. The hearing officer determined that the respondent's (claimant) \_\_\_\_\_, compensable injury includes an injury to her right knee in the form of osteoarthritis. The appellant (carrier) appealed, and the file does not contain a response from the claimant.

DECISION

Affirmed.

On appeal, the carrier asserts that the hearing officer incorrectly decided the disputed issue by determining that the claimant's compensable injury "was a producing cause of aggravation, acceleration, or worsening of the osteoarthritis." The carrier contends that aggravation, acceleration, or worsening of the claimant's osteoarthritis were not concepts certified for resolution in this case, and cites Texas Workers' Compensation Commission Appeal No. 010144, decided February 21, 2001, as authority for its position. Appeal No. 010144 is distinguishable from this case in several regards. First, one of the issues in that case was, "Is the compensable injury of \_\_\_\_\_ a producing cause of arthritis and damage to joint surfaces of the right knee?" Secondly, the issue of extent of injury had already been decided at a prior hearing. Thirdly, the claimant had been diagnosed with the condition prior to sustaining her compensable injury, therefore the compensable injury could not be a producing cause of the condition.

In the instant case, the issue was whether the claimant's compensable injury includes osteoarthritis, not whether the compensable injury was a producing cause of the osteoarthritis. Our review of the hearing officer's decision reveals that he clearly believed that the claimant's preexisting condition was aggravated by the compensable injury, and in this we find no error. The hearing officer did not find that the compensable injury was a producing cause of the osteoarthritis, instead he stated that the question was "whether the compensable injury event was a producing cause of aggravation, acceleration, or worsening of the osteoarthritis."

We have reviewed the complained-of determination and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established.

Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Susan M. Kelley  
Appeals Judge