

APPEAL NO. 030049  
FILED FEBRUARY 21, 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 December 9, 2002. The hearing officer determined that the appellant's (claimant) \_\_\_\_\_, compensable low back injury does not extend to or include her current conditions at L4-5 and L5-S1. The claimant appealed on sufficiency of the evidence grounds. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed as clarified.

The parties stipulated that the claimant sustained a compensable low back injury on \_\_\_\_\_. The claimant underwent an MRI on October 15, 1997, which revealed "Minimal degree, symmetric annular bulge with uniform excursion of the annulus of 3 to 4 mm. No focal substance protrusion/herniation signs" at the L4-5 level, and "Moderate degree, posterior central discal substance protrusion or herniation with posterior substance excursion of 6 to 7 mm. over a 1.2 cm. base. Associated, drying or desiccation of discal substance" at L5-S1. The claimant testified that she received treatment for this injury until approximately April of 1998. The self-insured asserted that it only accepted a low back soft tissue injury, however there is no evidence to support this assertion in the record, and we find that the claimant's \_\_\_\_\_, compensable injury includes the conditions revealed in the October 15, 1997, MRI report. The claimant testified that she did not receive treatment specifically for her compensable injury for approximately four years. The claimant admitted that she experienced a sneeze/fall incident at home, which caused severe pain. She returned to her workers' compensation doctor after the incident, who documented it in a May 23, 2002, report. A second MRI was done on June 19, 2002, which revealed "desiccation of the disk with a well-marked broad based central disk herniation, measuring 10 mm. x 4 mm. indenting the thecal sac. The traversing nerves and exiting nerves are within normal limits" at L5-S1, and "[t]he rest of the lumbar spine including bodies, disks, thecal sac, conus raedullaris, exiting nerves in the visualized neural foramina and paraspinal soft tissue are within normal limits."

Conflicting evidence was presented on the cause of the claimant's "current" condition at L5-S1, and this presented 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). 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 hearing officer commented that the medical evidence does not demonstrate that the increased herniation at L5-S1 (the increase from 6 to 7 mm to 10 mm reflected in the June 2002 MRI) is due to the January 1997 injury. That comment is supported by the evidence and is not contrary to the great weight and

preponderance of the evidence. We note that this decision in no way relieves the self-insured from liability regarding the originally accepted condition at L5-S1, that is to say, the condition revealed in the October 15, 1997, MRI report.

We next turn to the hearing officer's determination that the claimant's \_\_\_\_\_, compensable injury does not extend to or include her "current" condition at L4-5. As noted above, the claimant's compensable injury at L4-5 includes the findings in the October 15, 1997, MRI report. Although the June 19, 2002, MRI report does not specifically mention the L4-5 level, it does not indicate a worsening of the claimant's condition at L4-5. Because of this, we clarify the hearing officer's decision to reflect that the claimant's compensable condition at L4-5 is that which is shown in the October 15, 1997, MRI report.

The hearing officer's decision and order affirmed as clarified.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

\_\_\_\_\_  
Daniel R. Barry  
Appeals Judge

CONCUR:

\_\_\_\_\_  
Thomas A. Knapp  
Appeals Judge

\_\_\_\_\_  
Edward Vilano  
Appeals Judge