

APPEAL NO. 030230  
FILED MARCH 11, 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 (CCH) on remand was held on December 13, 2002. In Texas Workers' Compensation Commission Appeal No. 022672, decided November 25, 2002, the Appeals Panel had noted that some of the records the hearing officer had relied on in that case were of a patient other than the respondent (claimant) who happened to have the same last name and a similar date of injury. The Appeals Panel remanded the case directing that the incorrect records be removed and remanded the case for further consideration using the correct medical records of the claimant. The hearing officer did so, conducting a hearing on remand, and determined that the compensable injury of \_\_\_\_\_ extends to an injury of the left upper extremity (UE) and the cervical spine.

The appellant (carrier) appealed certain of the hearing officer's determinations as being unsupported by the evidence, summarized the evidence from its point of view and asserted that the hearing officer abused his discretion "in flipping his decision without the introduction of any new evidence to support the claimant's position." The file does not contain a response from the claimant.

DECISION

Affirmed.

The relevant facts are summarized in appeal No 022672, *supra*, and will not be repeated here. The medical evidence was in conflict and in Appeal No. 022672 the hearing officer relied on the records of another patient to determine that there was no or minimal initial complaints regarding the neck and left UE. Our remand was for the hearing officer to only consider the correct medical records of the claimant. The hearing officer did so and apparently believed that without the complained-of incorrect medical record the preponderance of the medical evidence swung in favor of the claimant.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. 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 or unjust. 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 hearing officer's decision and order.

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

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge