

APPEAL NO. 030304
FILED MARCH 19, 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 January 14, 2003. The hearing officer determined that the compensable injury of _____, extends to and includes injuries to the right hip and low back, but does not extend to include injuries to the thoracic area. The appellant (self-insured) appeals the extent-of-injury determination with regard to the right hip and low back, on sufficiency of the evidence grounds. In the alternative, the self-insured contends that it should not be responsible for the right hip and low back injuries, under an altered gait theory of recovery, because the respondent (claimant) refused surgical treatment for the compensable right knee injury. The claimant urges affirmance. The hearing officer's determination with regard to the thoracic area was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury extends to include injuries to the right hip and low back. The determinations involved questions 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer could infer from the medical evidence that the claimant's right hip and low back injuries naturally resulted from an altered gait due to the compensable right knee injury. In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

As stated above, the self-insured contends that it should not be responsible for the right hip and low back injuries, under an altered gait theory of recovery, because the claimant refused surgical treatment for the compensable right knee injury. The self-insured did not raise this argument at the hearing. Accordingly, we will not address it for the first time on appeal.

The decision and order of the hearing officer are affirmed.

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

**OFFICE OF THE CITY CLERK
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Daniel R. Barry
Appeals Judge