

APPEAL NO. 030509
FILED MARCH 24, 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 31, 2003. The hearing officer determined that the Independent Review Organization's (IRO) decision, finding that the respondent's (claimant) proposed surgery is not medically necessary, is not supported by a preponderance of the evidence. The appellant (carrier) appeals this decision. The claimant urges affirmance and attaches new evidence to his appeal.

DECISION

Affirmed.

The hearing officer did not err in applying a preponderance of the evidence standard to determine that the IRO decision is not supported by the evidence. Texas Workers' Compensation Commission Appeal No. 021958-s, decided September 16, 2002. The hearing officer pointed to the evidence from the treating doctor, who recommended surgery, and determined that the preponderance of the evidence was contrary to the IRO decision. Nothing in our review of the record indicates that the hearing officer's decision requires reversal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

With regard to the carrier's argument that the hearing officer did not mention that the reviewing physician who prepared the IRO decision recommended emphasizing weight loss, we note that the hearing officer was not required to recite the facts since the 1989 Act only requires findings of fact, conclusions of law, whether benefits are due, and an award of benefits due. Texas Workers' Compensation Commission Appeal No. 93791, decided October 18, 1993. A statement of evidence, if made, only needs to reasonably reflect the record. We perceive no error in the hearing officer's omission in the Statement of the Evidence of the weight loss recommendation.

We need not determine whether the new evidence submitted by the claimant should be considered for the first time on appeal, as the hearing record is sufficient to support the hearing officer's decision without that evidence.

The hearing officer's decision and order is affirmed.

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.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Terri Kay Oliver
Appeals Judge