

APPEAL NO. 030866
FILED MAY 20, 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 March 12, 2003. With respect to the issue before her, the hearing officer determined that the respondent's (claimant) compensable injury of _____, includes injuries at C4-5 and C5-6 diagnosed by a November 26, 2002, MRI. In its appeal, the appellant (carrier) argues that the hearing officer's determination is against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

Conflicting evidence was presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In essence, this is an aggravation case. In Cooper v. St. Paul Fire & Marine Ins. Co., 985 S.W.2d 614 (Tex. App.-Amarillo 1999, no pet.), the court held that "to the extent that the aggravation of a prior injury caused damage or harm to the physical structure of the employee, it can reasonably be said that the resulting condition fell within the literal and plain meaning of 'injury' as defined by the 71st Legislature" and that "the legislature intended the meaning of 'injury' to include the aggravation of preexisting conditions or injuries." See *also* Peterson v. Continental Cas. Co., 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet.), (where the court held that the aggravation of a preexisting condition is a compensable injury for purposes of the 1989 Act). The hearing officer's decision is supported by sufficient evidence, namely the claimant's testimony and the evidence from Dr. Hall (Dr. H) and Dr. LeGrand (Dr. L), and it is not 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge