

APPEAL NO. 031104  
FILED JUNE 3, 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 April 02, 2003r. The hearing officer determined that (1) the compensable injury of \_\_\_\_\_, extends to and includes an injury to the left elbow; (2) the compensable injury of \_\_\_\_\_, does not extend to or include an injury to the left shoulder; (3) the appellant (claimant) has had disability from May 21, 2002, through the date of the hearing; and (4) the respondent (carrier) waived the right to contest the claimed injury by not disputing the injury in accordance with Section 409.021. The claimant appeals the hearing officer's extent-of-injury determination with regard to the left shoulder, on sufficiency of the evidence grounds. The carrier urges affirmance. The remaining determinations were not appealed and are, therefore, final. Section 410.169.

DECISION

Affirmed as modified.

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_, does not extend to or include an injury to the left shoulder. This was 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)) 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)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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).

Although not requested by the parties, we believe it appropriate to modify the hearing officer's injury determination to accurately reflect the scope of the primary compensable injury in this case. At the hearing, the carrier conceded that the claimant sustained a compensable low back injury on \_\_\_\_\_. Accordingly, the hearing officer's injury decision is modified to state, "The compensable injury includes an injury to the low back."

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

**LEO MALO  
ZURICH NORTH AMERICA  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge