APPEAL NO. 031362
FILED JULY 14, 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) was held on April 16, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant failed to timely notify her employer of a work-related injury pursuant to Section 409.001, which relieves the respondent (carrier) of liability pursuant to Section 409.002; and that the claimant does not have disability because she does not have a compensable injury. The claimant appealed the determinations on sufficiency of the evidence grounds. The carrier responded, urging affirmance.

DECISION

Affirmed.

The claimant attached two letters to her appeal, correspondence dated March 19, 2003, from the ombudsman who assisted her at the CCH, and correspondence dated May 14, 2003, from a medical doctor who treated the claimant. The claimant acknowledges that neither document was offered into evidence at the CCH. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. *See generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the CCH below. The doctor's correspondence, responding to the letter from the ombudsman, was not received by the claimant until after the CCH. However, the claimant has not shown that the doctor's response could not have been obtained earlier. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10); that she had disability as defined by Section 401.011(16); and that she timely notified her employer of her claimed injury under Section 409.001. Conflicting evidence was presented at the CCH on the disputed issues. The claimant contends, in her appeal, that the hearing officer ignored or discounted her testimony and that she "feel[s] the hearing officer did not consider all the evidence, only parts." 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. This includes medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-

Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer did not consider all of the evidence before him. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **NEW HAMPSHIRE INSURANCE 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.

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Veronica Lopez-Ruberto
Appeals Judge