

APPEAL NO. 031517
FILED JULY 31, 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 May 27, 2003. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of _____, includes the disc protrusions at L4-5 and L5-S1. The appellant (self-insured) appealed, contending that the claimant failed to meet her burden of proof. No response was received from the claimant.

DECISION

Affirmed as reformed herein.

The disputed issue as agreed to by the parties was whether the compensable injury of _____, includes the L4-5 and L5-S1 disc protrusions. The MRI report of January 9, 2003, states an impression of a disc protrusion at L4-5 and a disc protrusion at L5-S1. The self-insured complains of the hearing officer's references to herniated discs in Findings of Fact Nos. 4 and 5. We reform Findings of Fact Nos. 4 and 5 to substitute disc protrusions for herniated discs, noting that the hearing officer's determination is that the compensable injury includes the disc protrusions at L4-5 and L5-S1.

The claimant had the burden to prove that her compensable injury includes the disc protrusions at L4-5 and L5-S1. Conflicting evidence was presented on the disputed issue. An injury includes the aggravation of a preexisting condition or injury. Texas Workers' Compensation Commission Appeal No. 030375, decided March 27, 2003. The hearing officer's determination is based on the self-insured's peer review doctor's report, which concluded that the claimant most likely exacerbated her preexisting degenerative disc disease as a result of her workers' compensation injury. 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. We conclude that the hearing officer's decision is supported by sufficient evidence and is 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).

As reformed herein, we affirm the hearing officer's decision and order.

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

**SUPERINTENDENT
(ADDRESS)
(CITY) TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge