

APPEAL NO. 031608
FILED AUGUST 7, 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 28, 2003. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury sustained on _____, extends to and includes a stroke. The appellant (self-insured) appeals, contending that the preponderance of the evidence does not support the hearing officer's decision. The claimant responds that the hearing officer's decision is supported by the evidence and requests affirmance.

DECISION

Affirmed.

The claimant sustained a compensable right shoulder injury. The day after he underwent surgery for the shoulder injury and while in the hospital, he was diagnosed as having suffered a stroke. The self-insured points to numerous preexisting risk factors the claimant had for suffering a stroke. In Gill v. Transamerica Insurance Company, 417 S.W.2d 720 (Tex. Civ. App.-Dallas 1967, no writ), the court stated: "The employer accepts the employee as he is when he enters the employment, and it is no defense to a claim for compensation that the injury would not have been as great if the employee had been in a healthy or more perfect physical condition." The self-insured also contends that the claimant had to show that the accident at work caused the stroke, and not the surgery. In Western Casualty and Surety Company v. Gonzales, 518 S.W.2d 524, 526 (Tex. 1975), the court stated: "The full consequences of the original injury, together with the effects of its treatment, upon the general health and body of the workman are to be considered." See also, Hartford Accident & Indemnity Co. v. Thurmond, 527 S.W.2d 180, 190 (Tex. Civ. App.-Corpus Christi 1975, writ ref'd n.r.e.) (where disability results from medical treatment instituted to cure or relieve an employee from the effects of his injury, it is regarded as having been proximately caused by the injury and is compensable); and Maryland Casualty Company v. Sosa 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968) *aff'd per curiam*, 432 S.W.2d 515 (Tex. 1968) (the law is well settled that where an employee sustains a specific compensable injury, he is not limited to compensation allowed for that specific injury if such injury, or proper or necessary treatment therefore, causes other injuries which render the employee incapable of work).

In the instant case, the hearing officer found that the surgery for the compensable injury was a producing cause of the stroke the claimant suffered postoperatively. The hearing officer concluded that the compensable injury extends to and includes a stroke. Conflicting medical opinions were offered with regard to whether the surgery for the compensable injury caused the stroke. Several medical opinions, including that of the required medical examination doctor appointed by the Texas

Workers' Compensation Commission, support the hearing officer's determination. The self-insured offered contrary medical opinions. 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 do not find the three Appeals Panel decisions cited by the self-insured, Texas Workers' Compensation Commission Appeal No. 950599, decided June 1, 1995; Texas Workers' Compensation Commission Appeal No. 981845, decided September 25, 1998; and Texas Workers' Compensation Commission Appeal No. 001540, decided August 18, 2000, to be dispositive of the issue in the instant case, because in the instant case there is medical evidence which supports the hearing officer's decision. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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).

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 OF SCHOOLS
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge