

APPEAL NO. 031773  
FILED AUGUST 25, 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 14, 2003, with the record closing on June 9, 2003. With respect to the single issue before her, the hearing officer determined that (decedent) compensable injury of \_\_\_\_\_, extends to include deep vein thrombosis (DVT), sepsis/necrotizing fasciitis that led to his death. In its appeal, the appellant (carrier) challenges that determination as being against the great weight of the evidence. In its response, to the carrier's appeal, respondent 1, the sub-claimant hospital, urges affirmance. Respondent 2, the beneficiaries of the decedent, did not appear at the hearing and did not file a response to the appeal.

DECISION

Affirmed.

The hearing officer did not err in determining that the decedent's compensable injury extends to include DVT, sepsis/necrotizing fasciitis that led to his death on (date of death). That issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. Dr. P, one of the doctors who treated the claimant for his infection while he was in the hospital testified as to the causal connection between the compensable injury and the DVT, sepsis/necrotizing fasciitis that led to his death. The carrier presented testimony from Dr. T, who conducted a records review on behalf of the carrier and opined that there was no such causal connection between the compensable injury and the DVT, sepsis/necrotizing fasciitis that led to the decedent's death. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer was acting within her province as the finder of fact in deciding to give more weight to the testimony of Dr. P and the other evidence tending to demonstrate the causal connection between the compensable injury and the conditions that resulted in the decedent's death. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Veronica Lopez-Ruberto  
Appeals Judge

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Robert W. Potts  
Appeals Judge