

APPEAL NO. 031916
FILED SEPTEMBER 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 (CCH) was held on June 19, 2003. The disputed issues from the benefit review conference were: (1) whether the respondent's (claimant) compensable injury of _____, includes the diagnosed L5-S1 herniated disc; (2) whether the claimant had disability as a result of the _____, compensable injury after November 19, 2001; (3) the claimant's date of maximum medical improvement (MMI); and (4) the claimant's impairment rating (IR). The parties agreed at the CCH that the claimant reached MMI statutorily on December 24, 2002. The parties also agreed that if the compensable injury includes the L5-S1 herniated disc, then the claimant's IR is nine percent, but that if the compensable injury does not include that L5-S1 herniated disc, then the claimant's IR is five percent (the designated doctor assigned both IRs due to the dispute regarding the extent of the injury). The hearing officer decided that: (1) the claimant's compensable injury of _____, includes the L5-S1 herniated disc; (2) the claimant has had disability due to the compensable injury since November 20, 2001, and continuing through the date of MMI; (3) the claimant reached MMI on December 24, 2002; and (4) the claimant IR is nine percent. The appellant (carrier) appeals the hearing officer's determinations on the extent of the compensable injury, disability, and IR. The claimant responds, requesting affirmance.

DECISION

Affirmed.

The disputed issues involved fact questions for the hearing officer to resolve as the finder of fact. 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. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues are supported by sufficient evidence and 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 hearing officer's decision and order.

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

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge