

APPEAL NO. 032231  
FILED OCTOBER 13, 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 July 14, 2003. The hearing officer determined that the Independent Review Organization's (IRO) decision against the respondent's (claimant) recommended spinal surgery is not supported by the evidence. The appellant (self-insured) appeals this determination and asserts, "the hearing officer erred in permitting/relying on evidence on matters outside the experience and licensure of the [claimant's] witness." The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The self-insured argues that the hearing officer based her decision on a "serious misunderstanding" and "flawed recitation" of the IRO report. Specifically, the self-insured points to the discussion portion of the hearing officer's decision, wherein she states that the IRO reviewer based his decision, in appreciable part, on the "mistaken impression that the available medical records contained no mention of pseudoarthrosis or spinal instability." However, the self-insured fails to point out that the hearing officer continued by stating,

Since the [IRO's] decision indicates that a different decision might have been rendered had the reviewer been aware of Claimant's diagnosed pseudoarthrosis, it appears that the [IRO's] decision is limited in value.

The hearing officer clarified, and the evidence reflects, that, as the medical records predating the IRO review included a diagnosis of pseudoarthrosis, and the IRO reviewer's decision against surgery was based, in part, on the absence of such diagnosis, the IRO decision was "limited in value." The hearing officer concluded that the IRO decision was not supported by a preponderance of the evidence. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust (Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986) or that the hearing officer erred as a matter of law in finding that the IRO decision is not supported by a preponderance of the evidence (See Texas Workers' Compensation Commission Appeal No. 021958-s, decided September 16, 2002).

The self-insured additionally argues that the hearing officer erred in allowing the claimant's witness, a registered nurse, to testify on matters outside her experience and in relying on that testimony in making a decision. However, there is no indication that the hearing officer based her decision on the testimony of the witness. Consequently, we perceive no reversible error in the admission of the witness testimony.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is:

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
300 W. 15TH STREET  
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR  
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For service by mail the address is:

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THE STATE OFFICE OF RISK MANAGEMENT  
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AUSTIN, TEXAS 78711-3777.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge