

APPEAL NO. 032313
FILED OCTOBER 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 July 31, 2003. The hearing officer determined that the compensable injury of _____, does not include scoliosis, arthritis, or facet arthropathy. The appellant (claimant) appealed on sufficiency of the evidence grounds and asserts that the Texas Workers' Compensation Commission (Commission) ombudsman failed to call her doctor as a witness. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

As indicated above, the claimant appears to complain of ineffective assistance from the Commission's ombudsman in the presentation of evidence. The claimant did not raise this matter at the hearing below, nor does the record reflect that the claimant desired to provide any additional evidence in support of her claim, which was not provided by the ombudsman. Accordingly, we decline to reverse the hearing officer's decision on this basis.

The hearing officer did not err in determining that the compensable injury of _____, does not include scoliosis, arthritis, or facet arthropathy. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination 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).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge