

APPEAL NO. 032430
FILED OCTOBER 22, 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 August 15, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to include diabetes and hypertension and that the Texas Workers' Compensation Commission has jurisdiction to adjudicate the extent-of-injury issue. The claimant appeals the adverse extent-of-injury determination. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Extent of injury is a factual question for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. The hearing officer was not persuaded by the evidence that the claimant's hypertension and diabetes directly resulted from, naturally flowed from, or were enhanced or accelerated by the compensable injury. 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).

With regard to the claimant's purported objection to the hearing officer's consideration of a peer review report of Dr. S, the hearing officer is not precluded from considering a peer review doctor's report on the basis that the doctor did not examine the claimant. The claimant additionally points out that the carrier paid for the claimant's medication for diabetes and hypertension in the past. The fact that a carrier may have paid for treatment for other areas of the body is not dispositive of the issue of extent of injury. Texas Workers' Compensation Commission Appeal No. 94105, decided March 7, 1994.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HIGHLANDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES HOOKER
10370 RICHMOND
HOUSTON, TEXAS 77042.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge