

APPEAL NO. 032884
FILED DECEMBER 17, 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 October 3, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____. The appellant (carrier) appeals this determination. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

On appeal, the carrier asserts that the hearing officer erred in determining that the claimant sustained a compensable injury because in doing so, he relied on the opinion of a chiropractor, who the carrier argues was not qualified to render an expert medical opinion. We are unaware of any authority, and the carrier points to none, which precludes a chiropractor from diagnosing a hernia and giving an opinion as to its causation. Additionally, we note that expert medical evidence is not required to prove causation of a claimed hernia injury where, as in the present case, there is evidence of a prompt onset of symptoms, that is, pain or bulging, following a specific event. Texas Workers' Compensation Commission Appeal No. 93194, decided April 23, 1993.

Whether the claimant sustained a compensable injury was a factual question for the hearing officer to resolve. An injury determination can be established by the claimant's testimony alone, if believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and 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)). 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). We additionally note that although the carrier asserts that the hearing officer's decision "is egregiously and manifestly unjust" because the claimant testified that his injury occurred on October 15 and October 25, the evidence reflects that the claimant clarified that the injury occurred on _____, and the hearing officer obviously found the claimant's testimony credible.

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.**

Chris Cowan
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge