

APPEAL NO. 033164
FILED FEBRUARY 2, 2004

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 November 12, 2003. The hearing officer determined that the appellant (carrier) is not entitled to a reduction of impairment income benefits (IIBs) for the compensable injury of _____, based on contribution from an earlier compensable injury. The carrier appeals this determination essentially on sufficiency of the evidence grounds. The respondent (claimant) did not file a response.

DECISION

Affirmed.

The hearing officer did not err in determining that the carrier is not entitled to a reduction of IIBs for the compensable injury of _____, based on contribution from an earlier compensable injury. Section 408.084(a) provides that the Texas Workers' Compensation Commission shall consider the "cumulative impact of the compensable injuries on the employee's overall impairment" in determining the reduction in benefits because of contribution of a prior compensable injury. The consideration of the cumulative impact from prior injuries requires an assessment not only of the impairment from previous injuries, but also an analysis of how the injuries work together. Texas Workers' Compensation Commission Appeal No. 950268, decided April 10, 1995. This includes consideration of the various components of the impairment ratings. See Texas Workers' Compensation Commission Appeal No. 950735, decided June 22, 1995. A determination of contribution must be based on medical evidence, but the existence of medical evidence supporting contribution does not require an award of contribution. Texas Workers' Compensation Commission Appeal No. 941170, decided October 17, 1994. Whether there is a cumulative impact, and if so, the amount of such cumulative impact is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 94578, decided June 22, 1994. 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 determinations are 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 is affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge