

APPEAL NO. 041046  
FILED JUNE 28, 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 April 15, 2004. The hearing officer decided that the decision of the Independent Review Organization (IRO), denying the request for spinal surgery, is supported by a preponderance of the evidence. The appellant/cross-respondent (carrier) appeals, requesting correction of clerical errors contained in the hearing officer's decision. The respondent/cross-appellant (claimant) cross-appeals on sufficiency of the evidence grounds. The carrier urges affirmance.

DECISION

Affirmed.

**CARRIER'S APPEAL**

The carrier requests correction of a clerical error contained in Conclusion of Law No. 3 and the "Decision" paragraph of the hearing officer's decision and order. The Director of Hearings issued an "Order on Motion to Correct Clerical Error" on May 14, 2004, granting the relief requested by the carrier. Accordingly, no further action is necessary. The carrier's appeal is, therefore, dismissed.

**CLAIMANT'S APPEAL**

The hearing officer did not err in determining that the decision of the IRO, denying the claimant's request for spinal surgery, is supported by a preponderance of the evidence. This 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 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  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge