

APPEAL NO. 041402  
FILED JULY 29, 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 (CCH) was held on May 13, 2004, with the record closing on May 24, 2004. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to include a herniated nucleus pulposus at L4-5, and that the claimant had disability from November 21, 2003, through the date of the CCH as a result of his compensable injury of \_\_\_\_\_. The appellant (carrier) appeals, contending that the hearing officer's determinations on the disputed issues are supported by insufficient evidence and are contrary to the great weight and preponderance of the evidence. The claimant asserts that sufficient evidence supports the hearing officer's decision and requests affirmance.

DECISION

Affirmed.

We do not consider for the first time on appeal the medical report attached to the claimant's response because Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH and because the medical report has not been shown to meet the requirements for newly discovered evidence as set forth in Jackson v. Van Winkle, 660 S.W.2d 807 (Tex. 1983). Consideration of the report would not produce a different result.

The claimant had the burden of proof on the issues regarding the extent of the compensable injury and disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

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, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

---

Robert W. Potts  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Daniel R. Barry  
Appeals Judge