

APPEAL NO. 041509
FILED AUGUST 12, 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 June 1, 2004. The hearing officer determined that the decision by the Independent Review Organization (IRO), that the appellant (clamant) should not have spinal surgery, is supported by a preponderance of the evidence. The claimant appealed the adverse determination based on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Whether the IRO's decision was supported by a preponderance of the evidence was a factual question 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 the instant case, the hearing officer reviewed the medical evidence and she commented in the Background Information that "[t]he evidence was insufficient to establish that the IRO's determination against spinal surgery was incorrect." 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CASUALTY RECIPROCAL EXCHANGE** and the name and address of its registered agent for service of process is

**FRED S. STRADLEY
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ABRAMS CENTER
DALLAS, TEXAS 75243-4355.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge