APPEAL NO. 040597
FILED MAY 6, 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 February 20, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include a stroke. The claimant appealed the hearing officer's extent-of-injury determination based on sufficiency of the evidence grounds and asserted that the hearing officer "imposed a burden of proof" that was beyond the preponderance of the evidence standard. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable left knee injury on _____. The evidence reflects that the claimant underwent a "left medial meniscus allograft transplant" on June 4, 2002, and that she was found to have suffered a post-operative stroke. The evidence reflects that the claimant had a preexisting intracranial vascular condition known as "Moya Moya," in which the arteries close off in the brain and then small arteries develop around them. At issue was whether the compensable injury of _____, extends to and includes a stroke. Dr. U testified and his medical reports dated September 11 and December 22, 2003, support the claimant's contention that the blood clotting that resulted from the surgery on June 4, 2002, caused the claimant's stroke. Dr. B testified and his peer review reports dated January 21, August 4, and November 17, 2003, support the self-insured's contention that the claimant's preexisting intracranial vascular condition was the result of her stroke.

The extent of an injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. 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. In the instant case, the hearing officer found that the claimant's knee surgery on June 4, 2002, was not a producing cause of the claimant's stroke. The hearing officer concluded that the compensable injury does not extend to and include a stroke. Conflicting medical opinions were offered with regard to whether the surgery for the compensable injury caused the claimant's stroke. Additionally, the claimant argued that the hearing officer gave more weight to the opinion of Dr. B, a peer review doctor, rather than Dr. U, a doctor who primarily treats stroke patients. The hearing officer commented that Dr. U was the "more credentialed of the two experts who testified," however, the hearing officer was not persuaded that the evidence supported the claimant's contention that the blood clot caused the claimant's stroke. We conclude that the hearing officer's decision is supported by sufficient evidence and

that it 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).

The claimant contends that the hearing officer "imposed a burden of proof on the claimant far beyond a preponderance of evidence and has imposed an impossible burden that requires the claimant to disprove any possible cause." We reject this contention. We conclude that the hearing officer properly stated and applied the burden of proof. We view the hearing officer's Statement of the Evidence paragraph as simply his commentary on and his explanation for concluding that the claimant failed to meet her burden of proof.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

CR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Veronica L. Ruberto
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Edward Vilano
Appeals Judge