APPEAL NO. 92442

On July 7, 1992, a contested case hearing was held at (city), Texas, (hearing officer) presiding as hearing officer. The record was kept open until July 31, 1992 to allow the appellant to present any additional medical evidence or reports. No other medical evidence or reports have been submitted. The hearing officer determined that the appellant had reached maximum medical improvement (MMI) with a two percent impairment rating. Appellant disagrees with the determination of his having reached MMI and the impairment rating. Respondent urges that the decision is supported by the medical evidence and should be affirmed.

DECISION

The evidence before the hearing officer being sufficient to support her findings and conclusions, the decision is affirmed.

The only issue before the contested case hearing was whether the appellant had reached MMI and, if so, his impairment rating. There were no witnesses called to give testimony, and the evidence before the hearing officer consisted primarily of medical records. A medical report from the appellant's former treating doctor certified MMI effective "2/25/92" with a two percent whole body impairment rating. By letter dated April 23, 1992, a designated doctor was selected by the Texas Workers' Compensation Commission and an examination of the appellant was scheduled. A Medical Evaluation Report submitted by the designated doctor on a Texas Workers' Compensation Commission Form 69 (TWCC-69), certified MMI on "05-13-92" and assessed an impairment rating of two percent. The appellant apparently saw another doctor with complaints of headaches and back pain and a report dated "06/29/92" recites prior tests and examinations done on the appellant and states that the appellant will be further evaluated, undergo some physical therapy and be referred to a head trauma specialist. There was no evaluation of MMI or impairment rating by that doctor. As indicated, the record was held open until July 31, 1992 to give the appellant an opportunity to present any further medical evidence or records. There is no indication that any were submitted.

The hearing officer determined that the opinion of the designated doctor had not been overcome by the contrary medical evidence. The Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN., art. 8308-4.26 (Vernon Supp. 1992) provides in pertinent part that "[i]f the commission selects a designated doctor, the report of the designated doctor shall have presumptive weight and the commission shall base the impairment rating on that report unless the great weight of the other medical evidence is to the contrary . . ." Article 8308-4.25 provides similarly for a designated doctor's determinations of MMI. There is sufficient evidence to support the hearing officer's decision. As we have previously held, a designated doctor's determinations of MMI and impairment rating hold a unique position in that they are accorded, unlike the reports of other doctors, presumptive weight. Texas Workers' Compensation Commission Appeal No. 92412 (Docket No. redacted) decided September 28, 1992. Only if the great weight of the other medical evidence is to the

contrary is the presumption overcome. That was not the situation here, as found by the hearing officer. The evidence supports that determination.

The decision is affirmed.

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Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

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Philip F. O'Neill
Appeals Judge

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Lynda H. Nesenholtz
Appeals Judge