

APPEAL NO. 93798

This case, originally heard in (city), Texas, on May 18, 1993, (hearing officer) presiding as hearing officer, is returned following our remand in Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. The claim is brought under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act) (formerly V.A.C.S., Article 8308-1.01 *et seq.*) The narrow issue on remand concerned the proper use of the Guides to the Evaluation of Permanent Impairment, Third Edition, American Medical Association (AMA Guides) in arriving at the impairment rating in this case and whether a mistake had been made. The hearing officer determined in his Supplemental Decision and Order that the impairment rating of 21% was correct and that the method of calculating the rate using the combined values chart was correct. The appellant (carrier) contests both the hearing officer's Original Decision and Order and the Supplemental Decision and Order. Respondent (claimant) asks that the decision be affirmed. We address only the narrow issue set forth in our remand, the remaining issues in the case having been disposed of in the original appeals decision, Appeal 93459, *supra*.

DECISION

Finding error in the hearing officer's decision, we reverse and render determining the correct impairment rating to be 20%.

The claimant sustained a compensable back injury. The Texas Workers' Compensation Commission's (Commission) selected designated doctor determined that the claimant had a 12% impairment rating for a specific disorder (related to spinal surgery) as specified in Table 49, of the AMA Guides and a total of nine percent impairment for range of motion (ROM) deficits (four percent flexion, three percent for extension, one percent for right side bending, and one percent for left side bending). As set forth in the hearing officer's Supplemental Decision and Order, the designated doctor used the Combined Values Chart found at the end of AMA Guides. It is the way that the combined values chart was used that we find to be erroneous. The designated doctor and the hearing officer determined the correct application of the chart was to take the 12% for the specific disorder found in Table 49 and combine it thusly:

12% combined with 4% (flexion ROM)= 16%
16% combined with 3% (extension ROM)= 19%
19% combined with 1% (right side ROM)= 20%
20% combined with 1% (left side ROM)= 21% whole body impairment

The correct method is to use the combined values chart to combine the total of the particular measurement with the total of another particular measurement. Here, the total of the diagnosis-based percentage of impairment from using Table 49 is 12% and the total of the abnormal ROM measurement percentage of impairment is nine percent. Going to the combined values chart, the 12% figure (the larger figure) is located on the side of the chart and the nine percent figure is located along the bottom of the chart. The combined percentage is the figure where the two intersect: in this case 20%. Chapter 3, paragraph

3.3a, provides some guidance on the calculation of total impairment of the whole person due to spine impairment. First, the primary impaired region (cervical, thoracic, lumbar) is selected. If applicable, Table 49 is used to obtain a diagnosis-based percentage of impairment. Here, that was determined to be 12%. Then, testing of the regional range of motion and the obtaining of the percentage of impairment (using the appropriate tables) due to abnormal motion or ankylosis for each specific movement is accomplished. The next two steps in the procedure provided by the AMA Guides form the basis for our determination that the method utilized by the designated doctor and accepted by the hearing officer was erroneous:

6. *Add* all range of motion impairment values for the one region; if the region is ankylosed, use the largest ankylosis impairment value.
7. To obtain the impairment of the whole person due to the impairment of the region of the spine, use the Combined Values Chart to combine the diagnosis-based impairment(s) with the impairment due to limited range of motion or ankylosis.

The above steps are repeated for secondarily impaired spinal regions (cervical, thoracic, lumbar), if applicable and then all regional spine impairments are combined into a single impairment of the whole person using the Combined Values Chart.

We do not find language or guidance in the AMA Guides in support of the method employed by the designated doctor and approved by the hearing officer in this case. We have previously discussed the provisions of the AMA Guides in the use of the Combined Values Chart where there is a specific diagnosis-based percentage of impairment of one region of the spine together with an ROM impairment of that region and a specific disorder of a second region of the spine. Texas Workers' Compensation Commission Appeal No. 93752, decided October 6, 1993. That decision is consistent with our holding here. Accordingly, we reverse the decision of the hearing officer and render a new decision that the claimant's whole body impairment rating is 20%.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Thomas A. Knapp
Appeals Judge