

## APPEAL NO. 991831

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 July 30, 1999. On the single issue before her, the hearing officer determined that the appellant's (claimant) impairment rating (IR) was 13% as certified by a designated doctor. The claimant appeals, urging that the rating from her treating doctor should be adopted because the designated doctor did not have all the medical records when he examined her, that he did not rate all her injuries, and that she was called back into his office three different times. No response has been filed.

### DECISION

Affirmed.

The claimant stated that on \_\_\_\_\_, she sustained injuries over her whole body, including abdominal pain, her shoulder, neck, and "everything," when she assisted a pregnant patient who had fallen forward on a counter. She had sustained prior work-related injuries to her back, knee, shoulder, wrist, etc. In any event, she treated with Dr. HE, who diagnosed backache, lumbar sprain, spondylosis, and later, sprained wrist. According to medical notes, the abdominal pain apparently was found to be an unrelated prolapsed bladder. On February 3, 1998, Dr. HE certified that the claimant reached maximum medical improvement with a 28% IR. Because of a dispute, Dr. HA was selected by the Texas Workers' Compensation Commission as a designated doctor for an IR. He saw the claimant on May 28 and June 5, 1998, and, in a report dated June 5, 1998, certified that the claimant had a 13% IR. He also subsequently replied to a letter and report of disagreement from Dr. HE. In this letter, dated October 2, 1998, Dr. HA responds to the disagreement expressed by Dr. HE, again explains his rationale for his rating, explained that some range of motion measurements were invalidated, and notes that "the patient manifests a significant functionality on examination and her sensory studies were quite misleading." Dr. HA adheres to his rating of 13%. Claimant complains that Dr. HA did not have all the records initially, that she had to return a couple of times, and that he did not include all her injuries.

The hearing officer, after reviewing the various medical records and opinions before her, determined that the great weight of the other medical evidence was not contrary to the report of Dr. HA and that his certification was entitled to presumptive weight. Section 408.125(e). The Appeals Panel has held that the designated doctor occupies a unique position under the 1989 Act, that his report on an IR is the only one entitled to presumptive weight, and that it is not merely a balancing of medical evidence. Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. The mere difference of medical opinion regarding the IR is not a sufficient basis to overcome the presumption in favor of a designated doctor's report. Texas Workers' Compensation Commission Appeal No. 960034, decided February 5, 1996. We do not find any basis to conclude that the designated doctor did not have all the information he needed, in addition

to his examination, to arrive at his IR. His reports are comprehensive and his methodology and application of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association are shown. We find no legal or factual basis to disturb the decision of the hearing officer.

Accordingly, the decision and order are affirmed.

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Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge