

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 et seq. (1989 Act). A contested case hearing (CCH) was held on December 21, 1999. The single issue at the CCH was the respondent/cross-appellant's (claimant) impairment rating (IR). The hearing officer accorded presumptive weight to the designated doctor's IR report and, after making what was termed a mathematical correction to the designated doctor's rating, awarded a 13% IR (correcting the nine percent IR in the report). The appellant/cross-respondent (carrier) has appealed the corrections of the report of the designated doctor, Dr. L, urging that he correctly applied the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), and that the IR should be nine percent as stated in his report. The claimant urges that the great weight of the other medical evidence is contrary to the report of the designated doctor and argues that the 32% IR from the treating doctor, Dr. G, should be adopted as the correct rating. Claimant also attaches to his appeal a single- page report dated January 19, 2000, from another doctor who had apparently evaluated the claimant for surgery, checked on the report that he is the treating doctor, and assigned a maximum medical improvement (MMI) date and an IR. Not being a part of the record of the CCH, we do not consider this document for the first time on appeal.

## DECISION

Affirmed as modified.

Claimant sustained a serious hand injury on \_\_\_\_\_, when his hand was caught in a machine. He has undergone two surgeries on his hand and reached MMI on February 20, 1998. Dr. G, the treating doctor, examined the claimant on February 20, 1998; found him to be at MMI; and assessed a 32% IR based on abnormal range of motion (ROM) and motor and sensory disorders to the right hand. In reaching his totals for each of the four injured digits, the regional digital impairments were added to arrive at a total digit impairment. Dr. L, as the Texas Workers' Compensation Commission-selected designated doctor, reviewed the records and examined the claimant (although claimant states it was an abbreviated and cursory examination) on April 7, 1998, and assessed a nine percent IR for ROM deficits but found no evidence of, or impairment for, nerve deficits. In reaching his ROM findings, Dr. L combined the regional digital impairment to arrive at a total impairment.

Dr. G disagreed with the rating of Dr. L and stated that the AMA Guides had not been properly applied. This information was sent to Dr. L who on June 1, 1999, adhered to his ratings and stated no changes were needed to his original report. Subsequently, specific questions were sent to Dr. L by the benefit review officer and Dr. L responded to each question explaining his method and evaluation of the claimant's impairment and referenced his original report. He again indicated that he had tested for any sensory loss and that he had used a goniometer to measure abnormal motion. He adhered to his original rating and seemed somewhat perturbed by the repeated inquiry. Clearly, there was

a difference of opinion between Dr. G and Dr. L on the extent of the ROM deficits and regarding any motor/sensory loss, and the hearing officer so found..

The hearing officer found that the great weight of the medical evidence was not contrary to the designated doctor's report. We conclude that there is sufficient evidence to support this determination and note that a difference in medical opinion does not alone warrant the rejection of a designated doctor's report. Texas Workers' Compensation Commission Appeal No. 992815, decided January 31, 2000; Texas Workers' Compensation Commission Appeal No. 982882, decided February 1, 1999. The hearing officer was satisfied from the evidence before her that Dr. L performed an examination, completed testing, reviewed the records, and applied the appropriate AMA Guides. We conclude there is sufficient evidence to support these findings and conclusions, and that the report of Dr. L was properly accorded presumptive weight in determining the IR in this case.

However, the hearing officer erred in making a "mathematical" correction to the report of Dr. L and determining a 13% IR rather than the nine percent IR certified. In this regard, she states that Dr. L combined the values of the digits while the AMA Guides state that they should be added. This is not correct. While the flexion and extension values of each joint of the digit are added to obtain the joint motion impairment (Metacarpophalangeal Joint--Flexion and Extension, page 26, AMA Guides), when abnormal motion of more than one joint of the finger is involved, the Combined Values Chart is used to obtain the impairment of the entire finger as provided in the first paragraph entitled "When more than one finger abnormal motion is involved" on page 27 of the AMA Guides. From the worksheets, it is apparent that this is the method used by Dr. L and it is the correct method under the situation in this case. Accordingly, we modify that part of the decision purporting to have made a mathematical-type correction of the IR to 13% and hold that no mathematical error occurred and that the IR is nine percent as certified by Dr. L. In all other respects, the decision and order are affirmed.

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

Elaine M. Chaney  
Appeals Judge

Judy L. Stephens  
Appeals Judge