

APPEAL NO. 000414

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 January 24, 2000. The hearing officer determined that the Texas Workers' Compensation Commission (Commission) did not abuse its discretion in appointing Dr. A as the designated doctor in this case. The decision and order also states that the parties stipulated that venue is proper in the (City) field office. Appellant (carrier) appeals the venue determination, contending that the stipulation was that venue was proper in the (City) field office. Carrier also appeals the designated doctor's determination, contending that it was mandatory for the Commission to appoint a doctor of medicine rather than a doctor of chiropractic, because respondent (claimant) had changed treating doctors to a doctor of medicine. The file does not contain a response from claimant.

DECISION

We affirm as reformed.

Carrier complains that the decision and order states that the parties stipulated that venue is proper in the (City) field office. Carrier appeals the venue determination, contending that the actual stipulation was that venue was proper in the (City) field office. The CCH was held in the (City) field office and the parties stipulated that venue was proper there. We reform Finding of Fact No. 1C and Conclusion of Law No. 2 accordingly.

Carrier contends the hearing officer erred in determining that the Commission did not abuse its discretion in "appointing" Dr. A as designated doctor in this case. Carrier contends that it was mandatory for the Commission to appoint a doctor of medicine rather than a doctor of chiropractic, because claimant had changed treating doctors to a doctor of medicine after his examination by the designated doctor.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(b)(4) states, in pertinent part, that:

(b) In order to be a designated doctor for a dispute, the doctor shall:

\* \* \*

(4) to the extent possible, be in the same discipline and licensed by the same board of examiners as the employee's doctor of choice.

In determining whether there has been an abuse of discretion, the hearing officer looks to see whether the Commission officer acted without reference to any guiding rules or principles. Texas Workers' Compensation Commission Appeal No. 951943, decided

January 2, 1996; Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). The hearing officer determined that there was no abuse of discretion.

In February 1998, carrier filed an impairment rating (IR) dispute after claimant's treating doctor determined that claimant was not at maximum medical improvement (MMI). The Commission selected Dr. A as the designated doctor on March 8, 1998. Claimant's doctor of choice at the time of the appointment of the designated doctor in March 1998, was Dr. C, a chiropractor. Therefore, it was not an abuse of discretion for the Commission to select Dr. A, a chiropractor, as the designated doctor in March 1998. About five days after Dr. A was selected as designated doctor, claimant changed treating doctors to a doctor of medicine, Dr. B. The Commission approved the request on March 20, 1998. The designated doctor, Dr. A, certified on April 22, 1998, that claimant had not reached MMI. Claimant later changed treating doctors to Dr. WA and then to Dr. WO, both doctors of medicine. In April 1999, Dr. WO certified that claimant reached MMI with an eight percent IR. Carrier filed a dispute of that IR and now contends that the Commission was required to select another designated doctor after that dispute. However, there was already a designated doctor in this case: Dr. A. The Commission is not required to select another designated doctor each time the carrier files a dispute of an IR or when the claimant changes treating doctors. We conclude that there was no error in the determination that the Commission did not abuse its discretion in selecting Dr. A as the designated doctor in this case.

As reformed, we affirm the hearing officer's decision and order.

Judy L. Stephens  
Appeals Judge

CONCUR:

Thomas A. Knapp  
Appeals Judge

Alan C. Ernst  
Appeals Judge