APPEAL NO. 000484

This appeal arises pursuant to the Texas Workers' Compensation Act of 1989, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On February 9, 2000, a hearing was held. The hearing officer determined that appellant (claimant) should not be relieved from the effects of a benefit review conference (BRC) agreement. Claimant asserts that she did not have a "full understanding" of the agreement and did not come to the BRC prepared to resolve the issues addressed in the agreement, adding that the explanation given to her was not sufficient. Respondent (self-insured) replied that the decision should be affirmed.

DECISION

We affirm.

Claimant on November 3, 1999, signed a BRC agreement which said that the date of maximum medical improvement (MMI) was June 10, 1999, that her impairment rating (IR) was four percent, and that temporary income benefits (TIBS) would be paid from August 12, 1998, to June 10, 1999. Mr. L, ombudsman for claimant at the BRC, (she was not represented) answered certain interrogatories by saying that in his opinion the agreement was favorable to claimant. He said he told her that she should not sign the agreement because anyone else wanted her to do so, but "only sign the agreement if she wanted to do so." Mr. L said that they discussed the fact that the first designated doctor was replaced when he moved away, after claimant had opined that the second designated doctor's opinion could also be overturned.

The first designated doctor was Dr. B. He said on August 17, 1998, that claimant reached MMI on August 12, 1998, from an injury to her right arm, received from breaking up a schoolyard fight on _____; he assigned a two percent IR. He later said on June 11, 1999, that claimant reached MMI on June 10, 1999, with a four percent IR. When Dr. B became unavailable, the Texas Workers' Compensation Commission (Commission) appointed another designated doctor, Dr. L. There was no evidence as to the reason why another designated doctor was needed other than claimant's testimony that she had repeated surgeries, including the last one in July 1999. Dr. L examined claimant on September 21, 1999, and found MMI to have been reached on June 10, 1999, as Dr. B had said in his second opinion. She also said that the IR was four percent. Claimant testified that she does not believe she was ready to be tested fully by Dr. L in September after having had surgery in July. However, the hearing officer agreed with claimant's argument against adding an issue of MMI and IR to this proceeding so while the agreement in issue dealt with MMI and IR, neither MMI nor IR were individual issues before this hearing. Carrier did not appeal denial of its motion to expand the issues.

Claimant said at the hearing that she only wanted the BRC to consider whether she should receive additional TIBS. She agreed that she signed the agreement. When asked if she would return the TIBS paid to her in a lump sum by self-insured if the agreement were disallowed by the hearing officer, she replied in the negative. The Commission records

indicate that claimant disputed the agreement on November 19, 1999, which self-insured represented was a date subsequent to paying claimant a lump sum for TIBS that would be due if the first date of MMI by Dr. B was not accepted but the second date of MMI was accepted.

The evidence presented factual questions for the hearing officer to determine. He is the sole judge of the weight and credibility of the evidence. *See* Section 410.165. While claimant said she disputed the answers given by Mr. L in the interrogatories propounded to him, the hearing officer could choose to give significant weight to those answers. While claimant indicated that the explanation given to her at the BRC was not as full as that given at the hearing, that does not mean that the hearing officer had to find good cause for relieving her of the agreement under the provisions of Section 410.030. The hearing officer did not abuse his discretion in failing to find good cause to relieve claimant of the agreement.

Finding that the decision and order are sufficiently supported by the evidence, we affirm. *See* In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Joe Sebesta
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Dorian E. Ramirez
Appeals Judge