APPEAL NO. 000542

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 10, 1999. The issues at the CCH were the impairment rating (IR) and maximum medical improvement (MMI) of the appellant (claimant). The hearing officer determined that claimant reached MMI on November 16, 1998, with an IR of one percent, as certified by the designated doctor, Dr. T. Claimant appeals, contending that the hearing officer erred in according presumptive weight to the designated doctor=s report. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer=s decision.

DECISION

We affirm.

Claimant contends the hearing officer erred in according presumptive weight to the designated doctor=s report. Claimant=s assertions on appeal are that: (1) claimant=s MMI date should be a date after she completed her work hardening program and returned to work; (2) the evidence that claimant performed poorly when examined by the designated doctor shows that the designated doctor should reexamine her; and (3) the designated doctor did not account for specific diagnosis problems or range of motion (ROM) loss.

It was undisputed that claimant sustained a compensable repetitive trauma injury that included bilateral carpal tunnel syndrome (CTS) and injuries to her shoulders and cervical spine, with a _____ date of injury. Claimant testified that she injured her neck, shoulder, and hands while working as a mail sorter, and that she also had pain in her elbows. She said she went through a work conditioning program and that her condition improved after that so that she was able to work as a teacher=s aide.

The hearing officer determined that: (1) the designated doctor considered all of claimant=s injuries in determining the one percent IR; (2) the designated doctor noted submaximal effort and stated that the claimant=s symptoms should have already cleared up; and (3) the great weight of the other medical evidence is not contrary to the designated doctor=s report of November 16, 1998.

The report of a Texas Workers= Compensation Commission (Commission)-selected designated doctor is given presumptive weight with regard to MMI status and IR. Sections 408.122(c) and 408.125(e). The amount of evidence needed to overcome the presumption is the "great weight" of the other medical evidence. *See* Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. Medical evidence, not lay testimony, is the evidence required to overcome the designated doctor's report. *See* Texas Workers' Compensation Commission Appeal No. 92166, decided June 8, 1992. Our appellate standard of review is stated in Appeal No. 92412, *supra*; Appeal No. 92166, *supra*; and Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We have reviewed claimant=s contentions, the briefs, the designated doctor=s report, the reports of the other doctors, and the hearing officer=s decision. Regarding claimant=s contention she was not yet at MMI before work hardening, this was for the designated doctor to consider in making his determinations. The hearing officer considered whether the great weight of the other medical evidence was contrary to the designated doctor regarding MMI and determined that it was not. Regarding claimant=s contention that the designated doctor should examine her again because she performed poorly, again the reason for claimant=s performance was for the designated doctor to consider. He chose not to ask for a repeat examination and certified that claimant was at MMI. We note that the need for additional medical treatment does not mean that MMI was not reached at the time it was certified. Texas Workers' Compensation Commission Appeal No. 94720, decided July 14, 1994. We have also reviewed claimant=s assertions and the designated doctor=s report regarding whether the designated doctor considered impairment for specific diagnosis or ROM loss. The designated doctor stated that the examination showed no motor or sensory deficit and no specific disorders of the cervical spine or upper extremity that would be ratable. He also stated that he considered ROM of the cervical spine and upper extremities. He found an one percent upper extremity impairment only. We conclude that the hearing officer=s determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra.*

We affirm the hearing officer=s decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Dorian E. Ramirez
Appeals Judge