

APPEAL NO. 001453

On June 8, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issue by deciding that appellant's (claimant) impairment rating (IR) is eight percent as reported by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). Claimant requests that the hearing officer's decision be reversed and that a decision be rendered that she has a 20% IR, or that the case be remanded to the hearing officer. No response was received from carrier.

DECISION

Affirmed.

The parties stipulated that claimant sustained a compensable injury on _____; that she reached maximum medical improvement (MMI) on March 22, 1999; and that the Commission chose Dr. K as the designated doctor.

According to medical reports, claimant injured her knees and back at work on _____, when a sheet of plywood fell on her and, as a result of that injury, claimant had arthroscopic surgery performed on both knees in 1998. Dr. H reported that an MRI of claimant's lumbar spine showed mild disc desiccation at L5-S1 and no evidence of a disc herniation. Dr. S, claimant's treating doctor, certified in a Report of Medical Evaluation (TWCC-69) that claimant reached MMI on March 22, 1999, with a 14 percent IR. The 14% IR assigned by Dr. S was for impairment of claimant's knees. Dr. S wrote that claimant received no impairment for her lumbosacral spine.

Dr. M certified in a TWCC-69 that claimant reached MMI on March 22, 1999, with a 20% IR. The 20% IR assigned by Dr. M was for impairment of claimant's knees and lumbar spine.

Dr. K, the designated doctor, certified in a TWCC-69 that claimant reached MMI on March 22, 1999, with an eight percent IR. The eight percent IR assigned by Dr. K was for impairment of claimant's knees. Dr. K, like Dr. S, determined that claimant had no impairment of her lumbar spine.

Section 408.125(e) provides that, if the designated doctor is chosen by the Commission, the report of the designated doctor shall have presumptive weight, and the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary, and that, if the great weight of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Commission, the Commission shall adopt the IR of one of the other doctors.

The hearing officer found that the great weight of the other medical evidence is not contrary to the determination of the designated doctor and that his findings are entitled to presumptive weight. The hearing officer concluded that claimant's IR is eight percent. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Philip F. O'Neill
Appeals Judge