

## APPEAL NO. 001592

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on October 19, 1999. The Appeals Panel, in Texas Workers' Compensation Commission Appeal No. 992954, decided February 14, 2000, affirmed the hearing officer's determination that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to and includes her psychological/psychiatric condition. However, the Appeals Panel reversed the hearing officer's determination that the claimant's impairment rating (IR) is 15% and remanded the case to the hearing officer for further consideration because it was the hearing officer, not Dr. M, the designated doctor, who decided to combine the three percent IR assigned by Dr. B for the claimant's psychological/psychiatric injury with the 12% IR assigned by Dr. M for the claimant's bilateral knee injuries. Upon remand, the hearing officer contacted Dr. M for a determination of the claimant's impairment, if any, from her psychological/psychiatric injury and Dr. M adopted the three percent rating of Dr. B, combined it with the 12% he had assigned for the claimant's knee injuries, and determined that the claimant's IR is 15%. In his remand decision, the hearing officer gave presumptive weight to the designated doctor and determined that based on Dr. M's amended report, the claimant's IR is 15%. The appellant (self-insured) has again requested review of the extent-of-injury issue and also challenges the IR determination. The appeals file does not contain a response from the claimant.

### DECISION

Affirmed.

Our decision in Appeal No. 992954, *supra*, contains a detailed recitation of the extensive medical evidence in this case which will not be here repeated. Upon remand, the hearing officer wrote Dr. M on April 17, 2000, advising that the Appeals Panel upheld his determination that the claimant's compensable injury of \_\_\_\_\_, extends to and includes a psychological/psychiatric component; that he, Dr. M, as the designated doctor, had assigned an IR of 12%; that Dr. B, in an addendum report of November 15, 1999, assigned an IR of three percent for the psychological/psychiatric problems, as related to the compensable injury; and that Dr. K had assigned an eight percent IR for the psychological condition. The hearing officer also attached copies of the reports of Dr. B and Dr. K and asked Dr. M to consider not only these reports but all the medical documents for the claimant and issue another Report of Medical Evaluation (TWCC-69) assigning a whole person IR to the claimant. The hearing officer further advised that Dr. M's whole person IR must cover the entire compensable injury which includes a psychological/psychiatric condition but that the amount of such IR is left up to Dr. M as the designated doctor.

On April 25, 2000, Dr. M signed an "Amended" TWCC-69 certifying that the claimant reached maximum medical improvement (MMI) on "10-28-98" with an IR of 15%. In his letter to the hearing officer of the same date, Dr. M states that he was not aware of the

psychological/psychiatric component of the claimant's injury when he assigned the 12% IR; that it is apparent that Dr. B assigned a three percent rating for that component; that the 12% impairment combined with the three percent impairment due to the psychological/psychiatric problems equates to a 15% impairment; and that the claimant has a whole person IR of 15%.

On May 16, 2000, the hearing officer forwarded Dr. M's response to the parties and gave them until May 26, 2000, to file a response. The record does not indicate that either party filed a response with the hearing officer by May 26 when he closed the hearing record. Nevertheless, the self-insured on appeal contends that a hearing officer's letter to Dr. B "mischaracterized the law"; that Dr. B was "forced" to assess the claimant's entire psychological condition due to the hearing officer's misleading correspondent; that Dr. B and Dr. M had already concluded that the IR should be zero percent for the claimant's psychological condition and no clarification was necessary; and that Dr. M just "rubber stamped" Dr. B's three percent IR.

Sections 408.122(c) and 408.125(e) provide that the report of the designated doctor concerning the date of MMI and the IR shall have presumptive weight and that the Texas Workers' Compensation Commission shall base the MMI date and IR on such report unless it is contrary to the great weight of the medical evidence. The self-insured does not state how it is that Dr. M's determinations are against the great weight of the medical evidence but rather contends, in essence, that the hearing more or less induced an IR for the claimant's psychological/psychiatric condition through unnecessary and inept correspondence with Dr. B and Dr. M. We find the self-insured's contentions lacking in merit and are satisfied that the hearing officer's MMI and IR determinations are not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). As for the extent-of-injury issue, we disposed of that issue in our prior decision in this case.

The decision and order of the hearing officer are affirmed.

---

Philip F. O'Neill  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Robert W. Potts  
Appeals Judge