

APPEAL NO. 002078

On August 24, 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 the appellant (claimant) reached maximum medical improvement (MMI) on February 4, 2000, with a zero percent impairment rating (IR) as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor. The respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that he injured his back at work on _____, when he was struck in the back by a wood bed frame. The parties stipulated that the claimant sustained a compensable injury on _____. The claimant was initially treated by Dr. S, who diagnosed a back contusion and released the claimant to return to work on November 23, 1999. In a Report of Medical Evaluation (TWCC-69) dated December 2, 1999, Dr. S certified that the claimant reached MMI on November 30, 1999, with a zero percent IR. The claimant was seen by Dr. M on December 8, 1999, and Dr. M diagnosed a thoracic strain and released the claimant to regular duty.

The claimant began treating with Dr. L on January 14, 2000, and Dr. L reported that he anticipated that the claimant would reach MMI on April 7, 2000, and took the claimant off work. Dr. L noted that x-rays of the claimant's back showed no fractures and he diagnosed a thoracic sprain/strain and myalgia/myositis. In subsequent reports from February to May 2000, Dr. L noted that the claimant had mild to moderate lower and upper dorsal pain and prescribed conservative treatment. On April 18, 2000, Dr. L wrote that the claimant could return to work without restrictions.

The Commission chose Dr. D as the designated doctor and in a TWCC-69 dated February 4, 2000, Dr. D certified that the claimant reached MMI on February 4, 2000, with a zero percent IR. Dr. D reported that he examined the claimant and reviewed the claimant's medical records.

Section 408.122(c) provides that the report of the designated doctor has presumptive weight and the Commission shall base its determination of whether the employee has reached MMI on the report unless the great weight of the other medical evidence is to the contrary. 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 contradicts the IR contained in the report of the designated doctor chosen by the Commission.

The hearing officer found that the great weight of the other medical evidence is not contrary to the determination of the designated doctor, Dr. D, and that his findings are entitled to presumptive weight. The hearing officer concluded that the claimant reached MMI on February 4, 2000, with a zero percent IR. The claimant contends that the hearing officer erred in deciding that he reached MMI on February 4, 2000, with a zero percent IR, asserting that he proved that he is not at MMI and that he does not have a zero percent IR. The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's decision on the issues of MMI and IR 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:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge