

APPEAL NO. 002585

Following a contested case hearing held on October 17, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by determining that based on the report of the designated doctor, Dr. T, which she found utilized the proper version of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), was not contrary to the great weight of the other medical evidence and was entitled to presumptive weight, the appellant (claimant) reached maximum medical improvement (MMI) on December 21, 1998, with an impairment rating (IR) of 6%. The claimant has appealed the IR determination, asserting that Dr. T failed to assign a rating under Table 49 of the AMA Guides for either her cervical or lumbar spine injuries and that the 20% IR assigned by her treating doctor, Dr. H, is the correct IR.

DECISION

Affirmed.

Dr. T wrote on January 5, 2000, that he reviewed the claimant's records again and did not find any objective medical pathology which would warrant a rating under Table 49 for either the cervical or lumbar spine and, thus, that his 6% IR will remain unchanged. Dr. H, who on March 4, 1998, diagnosed posttraumatic cervical and lumbar syndrome with thoracic strain, patellofemoral chondromalacia, and ankle strain, reported on January 5, 1999, that the claimant reached MMI on December 21, 1998, with an IR of 20% consisting of 6% for abnormal cervical range of motion (ROM), 5% for abnormal lumbar ROM, 7% for the knee, and Table 49 diagnosis-based ratings of 5% for the lumbar spine and 4% for the cervical spine. Dr. H wrote on March 23, 1999, that he disagreed with Dr. T's report because he, Dr. H, was able to obtain valid lumbar measurements and because he felt that the claimant should be given a rating for her right knee chondromalacia also. On August 6, 1999, Dr. H added 1% to the 20% IR for abnormal thoracic spine ROM.

The report of the designated doctor is entitled to presumptive weight and the Texas Workers' Compensation Commission is to base the IR on that report unless it is contrary to the great weight of the other medical evidence. Section 408.125(e). We are satisfied that the evidence is sufficiently supportive of the challenged determination. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Thomas A. Knapp
Appeals Judge