APPEAL NO. 002607

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 convened on October 4, 2000, was recessed, and was reconvened and closed on October 23, 2000. The issues at the CCH were the correct date of maximum medical improvement (MMI) and impairment rating (IR). The hearing officer found that the appellant (claimant) had reached MMI on January 20, 2000, with a four percent IR. The claimant requests review. The respondent (carrier) asserts that the claimant's appeal is insufficient to invoke the jurisdiction of the Appeals Panel and that the hearing officer's decision is supported by the evidence and should be affirmed. A response to the carrier's response has been filed, but that response is not signed by the claimant, but rather by another person with the same last name.

DECISION

Affirmed.

A benefit review conference (BRC) in this matter was held on August 4, 2000. The claimant attended the BRC and was assisted by an ombudsman. A CCH was scheduled for October 4, 2000, and the parties were provided written notice of the date and time of the CCH by a set notice from the Texas Workers' Compensation Commission (Commission) dated August 14, 2000.

On October 4, 2000, (hearing officer 1) convened the hearing. The claimant did not attend. Hearing officer 1 then sent a letter to the claimant on October 4, 2000, advising the claimant that the hearing had been convened, and recessed until October 23, 2000, at which time it would be reconvened. The letter requested that the claimant advise the Commission of his intention to appear, or not, when the hearing reconvened. A USPS return receipt indicates that the letter to the claimant was delivered on October 6, 2000.

The hearing was reconvened on October 23, 2000, with (hearing officer 2) presiding. The claimant again failed to appear. The claimant failed to contact the Commission in any manner after the BRC in August 2000 until his December 6, 2000, appeal was filed. The hearing officer admitted into evidence the Report of Medical Evaluation (TWCC-69) by the Commission-selected designated doctor, Dr. F, a chiropractor. Dr. F had certified that the claimant had reached MMI on January 20, 2000, with a four percent IR.

Early on and repeatedly since, we have held that no particular form of appeal is required and that an appeal, even though terse or inartfully worded, will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993, and decisions cited therein. We have also held that appeals which lack specificity will be treated as attacks on the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. We consider the

claimant's appeal an attack on the sufficiency of the evidence supporting the hearing officer's resolution of the only two interrelated issues in his decision--the date of MMI and the proper IR.

Dr. F's report of February 7, 2000, is valid on its face and there was no evidence presented to controvert Dr. F's determination of the claimant's date of MMI and IR. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this matter. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The hearing officer's decision and order are affirmed.

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Kenneth A. Huchton
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

_____
Judy L. Stephens
Appeals Judge