

## APPEAL NO. 002752

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 18, 2000, a hearing was held. The hearing officer decided that the first designated doctor's report was entitled to presumptive weight and that the appellant's (claimant) date of maximum medical improvement (MMI) and impairment rating (IR) was as certified by the designated doctor in his first report. The claimant appealed, asserting that the designated doctor had improperly invalidated lumbar range of motion (ROM) measurements, and requested that we reverse and render a new decision determining that the claimant's IR is as determined by the designated doctor with the addition of the impairment for lumbar flexion and extension using the measurements provided by the designated doctor. The respondent (carrier) responded that the designated doctor properly invalidated the lumbar flexion and extension measurements and requested that we affirm the decision and order of the hearing officer.

### DECISION

We affirm.

The hearing officer did not err in determining that the designated doctor, Dr. V, properly applied the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association in assigning a 12% IR in his report dated March 28, 1999, and in determining that the claimant had reached MMI on January 18, 1999, with a 12% IR as set forth in Dr. V's report.

In his report, Dr. V stated that he had determined that the claimant's maximum true lumbar flexion angle was 23E, that the claimant's maximum true lumbar extension angle was 26E, and that the maximum straight leg raise (SLR) on the tightest side was on the left at 66E. Dr. V's worksheet indicates that the sacral ROM associated with the claimant's maximum true lumbar flexion angle was 45E and that the sacral ROM associated with the claimant's maximum true lumbar extension angle was either 7E or 8E (the doctor's handwriting is somewhat difficult to read, but it appears that the final measurement for lumbar extension has a T12 ROM of 34, sacral ROM of 8, and true lumbar extension angle of 26). If the larger of the two sacral ROM figures associated with the claimant's maximum true lumbar extension angle is used, the sum of the sacral ROM for extension and flexion ( $45 + 8 = 53$ ) is less than 10E of the maximum SLR on the tightest side (66), thereby invalidating the lumbar flexion and extension measurements. Since the measurements for lumbar flexion and extension were properly invalidated by Dr. V, the hearing officer was correct in determining that Dr. V's resulting IR of 12% is a valid determination of the claimant's IR and in affording Dr. V's first determination of the claimant's date of MMI and IR presumptive weight.

There being no reversible error found in the record and the hearing officer's decision being supported by the evidence, we affirm the decision and order of the hearing officer.

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Kenneth A. Huchton  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge