

APPEAL NO. 002896

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 20, 2000. The hearing officer held that the appellant (claimant) reached maximum medical improvement (MMI) on June 21, 1999, with a seven percent impairment rating (IR), as determined by the designated doctor.

The claimant has appealed, arguing that her subsequent surgery should change the date of MMI and the amount of IR. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in giving presumptive weight to the designated doctor's report. The date of the claimant's back injury was _____. Her treating doctor assigned a four percent IR with a June 21, 1999, MMI date, and the designated doctor was appointed when the claimant disputed this report. The designated doctor's report specifically contemplated that the claimant could have surgery in the future. This is the only other report of IR and MMI in evidence.

The claimant had back surgery on September 5, 2000, which went through the second-opinion process. This surgery had originally been recommended in January 2000. Her surgeon disputed the designated doctor's report but did not render his own report on MMI and IR after surgery. When the designated doctor was asked whether the report should be revised because of surgery, the doctor declined to do so, pointing out that the possibility that surgery could be required in the future was considered at the time of the evaluation.

The resolution of MMI and IR cannot be postponed indefinitely because further treatment may be undertaken. See Texas Workers' Compensation Commission Appeal No. 980503, decided April 27, 1998. Furthermore, the designated doctor's report can only be set aside when the great weight of medical evidence is to the contrary. Without another opinion on the date of MMI and the extent of IR, it was not error for the hearing officer to reject the fact of surgery alone as constituting a "great weight."

We affirm the hearing officer's decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge