

APPEAL NO. 002935

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 7, 2000, a hearing was held. The hearing officer resolved the disputed issues by determining that the appellant (claimant) reached maximum medical improvement (MMI) on April 2, 1997, with a five percent impairment rating (IR) as certified by Dr. A, the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision and order are affirmed.

The hearing officer did not err in determining that the great weight of the other medical evidence was not contrary to the report of Dr. A and that the claimant reached MMI on April 2, 1997, with a five percent IR. Section 408.122(c) provides that the report of the designated doctor has presumptive weight and that 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, and 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 that 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. There was conflicting evidence in this case. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision is supported by sufficient evidence and 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.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Kenneth A. Huchton  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge