

APPEAL NO. 002983

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 December 5, 2000. With respect to the single issue before her, the hearing officer determined that the appellant's (claimant) impairment rating (IR) is 13% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In her appeal, the claimant essentially argues that her treating doctor's report is the great weight of the other medical evidence contrary to the designated doctor's report and asks that we reverse the hearing officer's decision and render a new decision that her IR is 20%. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____, to her cervical spine, right shoulder, and both ankles and that the claimant reached maximum medical improvement (MMI) under Section 401.011(30) on June 19, 1998. Dr. J was the first doctor to certify MMI and assign an IR. Dr. J assigned an 8% rating for a cervical specific disorder and loss of range of motion (ROM) in the right shoulder. Dr. J did not assign a rating for loss of ROM in the cervical spine and also did not assign any rating for the claimant's ankles. Dr. J's rating was disputed and Dr. B was selected by the Commission to serve as the designated doctor. Dr. B assigned a 13% IR, which is comprised of 4% for cervical specific disorder, 3% for loss of cervical ROM, 5% for loss of ROM in the right shoulder, and 1% for loss of ankle ROM. Dr. G, the claimant's treating doctor, has assessed a 20% IR, which is comprised of 6% for cervical specific disorder, 6% for loss of cervical ROM, and 9% for loss of ROM in the right shoulder.

The hearing officer did not err in giving presumptive weight to the designated doctor's IR under Sections 408.122(c) and 408.125(e). The difference between the designated doctor's certification and that of Dr. G is attributable to differences in medical opinion as to what rating to assign to the claimant's cervical spine for the specific disorder and ROM components. The treating doctor's opinion on those factors does not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. Accordingly, the hearing officer did not err in giving presumptive weight to the designated doctor's report under Sections 408.122(c) and 408.125(e) and in determining that the claimant's IR is 13% as certified by the designated doctor selected by the Commission.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge