APPEAL NO. 010252

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 January 8, 2001. With respect to the single issue before him, the hearing officer determined that the respondent's (claimant) impairment rating (IR) is 27% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In its appeal, the appellant (carrier) contends that the hearing officer erred in giving presumptive weight to the designated doctor's IR. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The hearing officer did not err in giving presumptive weight to the designated doctor's certification of IR under Sections 408.122(c) and 408.125(e). The carrier contends that the designated doctor, a chiropractor, was not qualified to give an IR for mental and behavioral disorders. Rather, it argues that the designated doctor should have referred the claimant to either a psychiatrist or a psychologist to determine the claimant's IR for the mental and behavioral component of his rating. The carrier cites no authority for the proposition that the designated doctor was required to make such a referral and we are unaware of any such authority. Accordingly, we find no merit in the carrier's assertion that the designated doctor's IR was not entitled to presumptive weight because she was not qualified to give a rating under Chapter 14 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association.

The carrier also contends that the appointment of the designated doctor was improper under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(b)(4) (Rule 130.6(b)(4), which requires, to the extent possible, that the designated doctor "be in the same discipline and licensed by the same board of examiners" as the claimant's treating doctor. The carrier acknowledges that at the time the designated doctor was appointed, on March 17, 2000, a change of treating doctor had been approved by the Commission permitting the claimant to change from a medical doctor to a chiropractor as the treating doctor, as of March 10, 2000. Thus, it contends that the appointment of the designated doctor "violates the intent, if not the actual letter of Rule 130.6(b)(4)." Again, we find no merit in this assertion. The fact that the change of treating doctor had been approved only shortly before the designated doctor was appointed does not change the fact that at the time the designated doctor was appointed the claimant's treating doctor was a chiropractor. Accordingly, the appointment of a chiropractor as the designated doctor appears to have been made in compliance with Rule 130.6(b)(4). We find no basis for awarding the carrier's request that a second designated doctor be appointed based upon its belief that the "spirit and the intent" of Rule 130.6(b)(4) was violated in this case when a chiropractor was selected as the designated doctor.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Judy L. S. Barnes
Appeals Judge