

APPEAL NO. 010790

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 March 27, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) reached maximum medical improvement (MMI) July 15, 2000, and had an impairment rating (IR) of zero percent. The hearing officer also decided that the claimant's compensable injury of _____, did not extend to include a psychological condition. The claimant appeals on sufficiency grounds and seeks reversal. The respondent (carrier) responds and urges that the decision and order of the hearing officer be affirmed in all respects.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's MMI date was July 15, 2000, and that she had a zero percent IR. The hearing officer appropriately gave presumptive weight to the decision of the designated doctor, who assigned that MMI/IR to the claimant. The designated doctor reached that determination when he examined the claimant in full in July and he reaffirmed his determination when supplemental records of the claimant were later sent to him for review. Though medical records and documents from the claimant's treating doctor indicate that the claimant has yet to reach her MMI date, the hearing officer found that the great weight of this other medical evidence was not contrary to the designated doctor's evaluations of MMI/IR.

The hearing officer did not err in determining that, first, the issue of extent of injury needed to be raised to review this MMI/IR determination and, second, the claimant's compensable injury did not extend to include her psychological condition, a mood disorder with significant anxious and depressive features. The hearing officer stated that while he did not give presumptive weight to the designated doctor on the extent-of-injury matter, he did find the designated doctor's description of the claimant's condition and the nature of her injury to be more persuasive than those of the other doctors, including that of the claimant's psychologist.

The parties presented conflicting evidence on the disputed issues. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not disturb the contested findings of a hearing officer unless they are so against the great weight and

preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

For these reasons, we affirm the decision and order of the hearing officer.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge