

APPEAL NO. 010936  
FILED JUNE 13, 2001

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 April 4, 2001. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) impairment rating (IR) is 13%. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant's IR is 13% as was originally certified by Dr. R, the designated doctor. The parties stipulated that the claimant reached maximum medical improvement (MMI) on October 18, 1996, which was considered to be the date of statutory MMI, and that Dr. R was the designated doctor chosen by the Texas Workers' Compensation Commission. The claimant had back surgery in February 1996 and Dr. R examined the claimant in July 1997 and assigned a 13% IR. The evidence reflects that Dr. R's amended IRs of 15% and 27% were based on a second back surgery done in December 1997 that was not under active consideration at the time of statutory MMI. Because the second back surgery was not under active consideration at the time of statutory MMI, the hearing officer was correct in not adopting either of the designated doctor's amended IRs. See Texas Workers' Compensation Commission Appeal No. 962107, decided December 2, 1996. The hearing officer's decision is supported by sufficient evidence and is not against the great weight and preponderance of the evidence.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Michael B. McShane  
Appeals Judge