

APPEAL NO. 011006  
FILED JUNE 21, 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 18, 2001. With respect to the issue before him, the hearing officer determined, in accordance with the rating assigned by the designated doctor selected by the Texas Workers' Compensation Commission (Commission), that the appellant (claimant) has an impairment rating (IR) of 11%. The claimant urges on appeal that in assigning the 11% IR, the designated doctor did not consider a brachial plexus injury and, therefore, the hearing officer's decision should be reversed and a new decision rendered that his IR is 18% as certified by the claimant's independent medical examination (IME) doctor. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance. We note that the self-insured also filed a cross-appeal, exclusively for the purpose of correcting a clerical error in the hearing officer's decision, namely that the claimant reached maximum medical improvement on December 1, 1999, rather than December 1, 2000, as the decision and order originally reflected. That error has subsequently been corrected as reflected in an Order on Motion to Correct Clerical Error. As such, we will not further address the self-insured's cross-appeal.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in giving presumptive weight to the IR assigned by the designated doctor. It is undisputed that the claimant sustained a compensable injury on \_\_\_\_\_, and that he reached maximum medical improvement (MMI) on December 1, 1999. Upon certifying that the claimant had reached MMI, the claimant's IME doctor, Dr. C, assigned an 18% IR, which included a motor deficit rating relating to the brachial plexus. This rating was disputed by the self-insured and, consequently, the claimant was examined by a Commission-selected designated doctor, Dr. Ca. Dr. Ca initially assigned a 7% IR. Subsequently, Dr. Ca noted that the 7% IR reflected a typographical error and amended his report to reflect an 11% IR. Dr. C then submitted a letter, questioning the rating assigned by Dr. Ca. Dr. C attributed the lower rating assigned by Dr. Ca to the fact that Dr. Ca did not rate a motor deficit relating to a brachial plexus injury. Dr. Ca responded and clarified that during his examination of the claimant, he found no evidence of brachial plexopathy and confirmed his 11% IR assignment. The hearing officer determined that the IR assigned by the designated doctor was not contrary to the great weight of other medical evidence and found that the claimant's IR is 11%.

The hearing officer did not err in giving presumptive weight to the designated doctor's 11% IR under Sections 408.122(c) and 408.125(e). The difference between Dr. Ca's certification and that of Dr. C is attributable to differences in medical opinion as to whether any IR was properly assigned to the claimant relative to the brachial plexus injury.

Dr. C's opinion on that matter simply 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 11%.

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge