

APPEAL NO. 011071
FILED JUNE 26, 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 February 14, 2001, with the hearing record closing on April 23, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on February 1, 1999, with a 14% impairment rating (IR) as was certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission), and that the claimant had disability from February 1, 1999, through October 27, 1999, although he was not entitled to temporary income benefits after having reached MMI on February 1, 1999. The claimant appealed the hearing officer's decision on the issues of MMI and IR and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The MMI and IR report of the designated doctor chosen by the Commission has presumptive weight and the Commission shall base its determination of MMI and IR on that report unless the great weight of the medical evidence is to the contrary. Sections 408.122(c) and 408.125(e).

The claimant sustained a compensable injury on _____. In December 1998, Dr. G examined the claimant at the carrier's request and certified that the claimant reached MMI with an 11% IR for impairment of the lumbar spine. The claimant's treating doctor, Dr. C, is a chiropractor and thus the Commission chose a chiropractor, Dr. R, as the designated doctor. See Section 408.122(b). Dr. R examined the claimant on February 1, 1999, and certified that the claimant reached MMI on February 1, 1999, with a 14% IR for impairment of the lumbar spine and cervical spine. Dr. C referred the claimant to Dr. M, who examined the claimant and certified that the claimant reached MMI on October 29, 1999, with a 31% IR for impairment of the cervical spine, thoracic spine, and lumbar spine, and for impairment of the left knee and for post-concussive syndrome. In response to a Commission inquiry, Dr. R reported that the claimant has no cognitive dysfunction.

Various other medical reports were in evidence. There is conflicting evidence with regard to the claimant's assertion that he has a ratable cognitive disorder. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer found that the report of Dr. R, the designated doctor, is entitled to presumptive weight and that the great weight of the other medical evidence is not contrary to Dr. R's report. The hearing officer concluded that the claimant reached MMI on February 1, 1999, with a 14% IR as was certified by Dr. R. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge