APPEAL NO. 011161
FILED JULY 03, 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 May 2, 2001. With respect to the sole issue before him, the hearing officer determined that the appellant (claimant) had an impairment rating (IR) of 2%. The claimant appeals on sufficiency grounds and seeks reversal. The respondent (carrier) responds and urges affirmance of the hearing officer's decision and order in all respects.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had an IR of 2%. Section 408.125(e) of the 1989 Act provides that if the designated doctor is chosen by the Texas Workers' Compensation Commission (Commission), the report of the designated doctor shall have presumptive weight and the Commission shall base the IR in that report unless the great weight of the other medical evidence is to the contrary. The Commission designated a doctor who assigned the 2% IR to the claimant March 8, 2001, after reexamining him[1] and considering the whole of his injury. While the claimant's treating doctor assigned a 15% IR to the claimant July 14, 2000, the hearing officer found that not only was the designated doctor's IR assignment to be given presumptive weight, but also that the 2% IR was not contrary to the great weight of other medical evidence.

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 challenged 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).

[1] At a benefit review conference held January 30, 2001, the parties agreed that on his first examination of the claimant September12, 2000, the designated doctor failed to take into account the claimant's right hip injury, assigning him a 0% IR. Thus, the designated doctor was asked to reexamine the claimant and assign him a whole body rating.

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge