

APPEAL NO. 011240  
FILED JULY 11, 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 24, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on June 23, 1998, with a 13% impairment rating (IR) as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission), and that the claimant had disability from June 24, 1998, through June 30, 1999, but is not entitled to temporary income benefits (TIBs) for that period because she reached MMI on June 23, 1998. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant reached MMI on June 23, 1998, with a 13% IR as certified by the designated doctor. 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 other medical evidence is to the contrary. Sections 408.122(c) and 408.125(e). The claimant sustained a compensable injury on \_\_\_\_\_. A referral doctor certified that the claimant reached MMI on April 27, 1998, with a 6% IR. A doctor who examined the claimant at the carrier's request certified that the claimant reached MMI on May 1, 1998, with a 9% IR. The designated doctor examined the claimant and certified that the claimant reached MMI on June 23, 1998, with a 13% IR. The claimant's treating doctor did not agree with the designated doctor's report because the claimant was still being treated. At the Commission's request, the designated doctor reexamined the claimant in December 2000 and again certified that the claimant reached MMI on June 23, 1998, with a 13% IR. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision that the claimant reached MMI on June 23, 1998, with a 13% IR as certified by the designated doctor 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.

Although the hearing officer determined that the claimant had disability from June 24, 1998, through June 30, 1999, the hearing officer did not err in determining that the

claimant is not entitled to TIBs for that period because the claimant reached MMI on June 23, 1998. Sections 408.101(a) and 408.102(a).

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Robert W. Potts  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge