APPEAL NO. 011245
FILED JULY 19, 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 (CCH) was held on May 9, 2001. There were four issues at the hearing:

1. Did the [respondent] Claimant's compensable injury extend to include chronic pain condition and depression?

2. Is the Claimant entitled to change treating doctors to [Dr. V], pursuant to Texas Labor Code Ann. Section 408.022?

3. What is the date of maximum medical improvement [MMI]?

4. What is the Claimant's impairment rating [IR]?

Prior to the CCH, the parties stipulated that the date of MMI was May 25, 2000. The hearing officer's determination that the claimant could change treating doctors (issue 2) has not been appealed and will not be addressed further. The appellant (carrier) appeals, arguing that the hearing officer's determinations that the claimant's compensable injury extends to her psychological condition and that the claimant's IR cannot be ascertained until a complete examination has been performed, are against the great weight of the evidence. The claimant responds, urging affirmance. The claimant also seeks in her response to appeal the hearing officer's ordering a new psychological examination. However, the claimant's response was untimely to act as a request for review.

DECISION

Affirmed.

Evidence was received as to all issues. With respect to the appealed issues, the hearing officer found that the claimant's compensable injury extends to include chronic pain condition and depression and that the claimant's IR cannot be ascertained until a complete examination has been performed. She held that the referral by the designated doctor for assessment of the extent and permanence of any impairment due to a psychological condition was not valid because it was made to a treating doctor for the claimant. Therefore, until the designated doctor's examination is complete, no IR can be assigned or presumptive weight accorded to an IR from a partial examination. We hold that the hearing officer did not err in making these findings. Applying our standard of review, we conclude that the hearing officer's determinations are not 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).

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge