

APPEAL NO. 012035
FILED OCTOBER 4, 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 July 26, 2001. With respect to the single issue before him, the hearing officer determined that the appellant's (claimant) impairment rating (IR) is 13%, in accordance with the report of a doctor to whom the claimant had been referred by his then-treating doctor for an IR. The hearing officer rejected the designated doctor's IR because the designated doctor refused to rate the entire injury and used the prohibited method of rounding to calculate the claimant's cervical range of motion. In her appeal, the claimant argues that the hearing officer should not have adopted the rating he did because it also did not rate the entire injury in that it did not rate temporomandibular joint syndrome (TMJ). The claimant asks that we adopt the 32% IR of her current treating doctor. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

Neither party asserts error in the hearing officer's having rejected the designated doctor's rating in this case. The only argument is whether the hearing officer erred in adopting the 13% rating from Dr. C, as opposed to the 32% rating of Dr. N, the claimant's current treating chiropractor. The claimant asserts that the hearing officer erred in adopting Dr. C's rating because Dr. C did not rate the claimant's TMJ. We find no merit in this assertion. In the narrative report accompanying his Report of Medical Evaluation (TWCC-69), Dr. C specifically noted that the claimant had been diagnosed with TMJ. Based upon that reference, the hearing officer, as the fact finder, was free to decide that Dr. C had considered the TMJ and decided that the condition did not warrant any rating. The hearing officer's determination in that regard is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination, or the determination adopting Dr. C's 13% IR, on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **UNITED PACIFIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**TIMOTHY J. McGUIRE
633 NORTH STATE HIGHWAY 161, SUITE 1000
PLANO, TEXAS 75093.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge