

APPEAL NO. 012069
FILED OCTOBER 24, 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 August 9, 2001. On the single issue before her, the hearing officer determined that the respondent (claimant) reached maximum medical improvement (MMI) on October 25, 2000. In its appeal, the appellant (carrier) asserts error in the determination that the claimant reached MMI on October 25, 2000, and asks that we render a new decision that the claimant reached MMI on October 14, 1999, as the designated doctor certified in his first amended report. The appeal file does not contain a response to the carrier's appeal from the claimant. The parties stipulated that the claimant's impairment rating (IR) is 15%, as certified by the designated doctor in his first amended report.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on October 25, 2000. The carrier asserts that the claimant reached MMI on October 14, 1999, as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission) in both his initial and his first amended Report of Medical Evaluation (TWCC-69), not October 25, 2000, as certified in the designated doctor's second amended TWCC-69. The carrier argues that the designated doctor's second amended MMI certification was not made within a reasonable time for a proper reason and should not be entitled to presumptive weight. This was a question of fact for the hearing officer. See Texas Workers' Compensation Commission Appeal No. 982923, decided January 23, 1999. In his response to a Commission letter of clarification regarding the MMI issue, the designated doctor stated that the claimant's shoulder and cervical spine were not considered in his first evaluation, when he certified the October 14, 1999, date of MMI; thus, he amended his MMI date to October 25, 2000, the date he reexamined the claimant to evaluate the shoulder and cervical spine. In view of this evidence, the hearing officer could determine that the designated doctor did not fully examine the claimant at the time of his initial report and that he did not consider the effect of the cervical and shoulder injuries on the date of MMI in his first amended report, but only on the IR. Under these circumstances, the hearing officer could find that the designated doctor amended his MMI certification within a reasonable time for a proper purpose. To the extent the carrier asserts that the great weight of the other medical evidence is contrary to the October 25, 2000, MMI date, we find no merit in such an assertion. As such, the hearing officer did not err in giving presumptive weight to the October 25, 2000, date of MMI. Sections 408.122 and 408.125.

The decision and order of the hearing officer are affirmed.

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

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge