APPEAL NO. 012171
FILED OCTOBER 16, 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 August 29, 2001. With respect to the sole issue before her, the hearing officer determined that the appellant (claimant) had an impairment rating (IR) of 12% as assigned by the designated doctor. In her appeal, the claimant argues that the greater weight of the medical evidence supports the IR assigned by treating doctor, which was 24%, and asks that the Appeals Panel render a decision to that end. In the alternative, the claimant requests that the Appeals Panel remand the case so that the claimant may be evaluated by another designated doctor. The respondent (self-insured) responds and urges affirmance.

DECISION

Affirmed.

The claimant sustained a compensable injury to her low back on _____. The parties stipulated that the claimant reached maximum medical improvement (MMI) on July 6, 2000. Dr. S, the claimant's treating doctor, initially assigned the claimant an IR of 24% based on a 12% impairment from subsection (IV)(B) of Table 49 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides). Dr. S added 2% for a second surgery and 1% for numbness in the claimant's leg, adding up to a 15% rating from Table 49. Dr. S added 9% impairment for loss of range of motion (ROM), giving the claimant a whole person rating of 24%. The self-insured challenged the IR and Dr. H was chosen as the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. Dr. H also assigned the claimant an IR of 12% from subsection (IV)(B) of Table 49 but did not add percentage ratings for a second surgery, loss of ROM, or sensory loss.

The Commission, by letter dated February 1, 2001, sought clarification from Dr. H regarding why Dr. H had not added 2% impairment for a second operation and asked whether the claimant's sensory loss had been considered. Dr. H replied that the first operation had been in 1991 for a prior injury and that he was only rating the present compensable injury. Dr. H also stated that he found no consistent motor pattern weakness and no clear dermatome pattern of sensory loss, so he awarded no sensory impairment.

Section 408.125(e) reads, in pertinent part.

> If the designated doctor is chosen by the commission, the report of the designated doctor shall have presumptive weight, and the commission shall base the [IR] on that report unless the great weight of the other medical evidence is to the contrary.

Here, it appears that Dr. S and Dr. H simply had differing medical opinions, which difference was insufficient to overcome the statutory presumption in favor of the designated doctor's ratings. *See* Texas Workers' Compensation Commission Appeal No. 000530, decided April 26, 2000, and cases cited therein.

The hearing officer's decision is supported by the evidence and is 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).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(SELF-INSURED SCHOOL DISTRICT)** and the name and address of its registered agent for service of process is

(NAME
AND ADDRESS
IN BOLD PRINT).

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

CONCUR IN THE RESULT:

Gary L. Kilgore
Appeals Judge