

APPEAL NO. 012334
FILED NOVEMBER 9, 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 September 11, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on June 14, 1999, with a zero percent impairment rating (IR) as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). 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 14, 1999, with a zero percent IR. 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. Section 408.122(c) and 408.125(e). MMI is defined in Section 401.011(30) and IR is defined in Section 401.011(24).

The claimant sustained a compensable left shoulder injury. The claimant's initial treating doctor referred him to another doctor for an MMI and IR evaluation and the referral doctor reported that the claimant reached MMI on June 28, 1999, with a zero percent IR. The claimant said that he disputed that report. The Commission chose a designated doctor to determine MMI and IR and the designated doctor reported that the claimant reached MMI on June 14, 1999, with a zero percent IR.

On September 8, 2000, the claimant underwent left shoulder surgery. A subsequent treating doctor referred the claimant to a doctor for an MMI and IR evaluation and that referral doctor reported that the claimant reached MMI on February 5, 2001, with an 11% IR. Two letters for clarification were sent to the designated doctor by the Commission, and the designated doctor reviewed additional medical reports, including the operative report, and twice responded that there was no change in the date of MMI and IR that he had certified.

The claimant contends that the designated doctor's report is against the great weight of the other medical evidence and requests that an MMI date of February 5, 2001, be adopted and that a new designated doctor be appointed to determine the IR. The hearing officer considered the conflicting evidence and found that the designated doctor's certifications of MMI and IR were not overcome by the great weight of contrary medical evidence. The hearing officer determined that the claimant reached MMI on June 14, 1999, with a zero percent IR as certified by the designated doctor. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the

finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision 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.

The hearing officer's decision and order are affirmed.

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

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge