APPEAL NO. 012386
FILED NOVEMBER 8, 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 31, 2001. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on March 20, 2000, with a seven percent impairment rating (IR). The claimant appealed these determinations. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant sustained a compensable injury on _____, in the form of a lumbar strain. The carrier-selected required medical examination doctor, Dr. C, certified October 13, 1998, as the date of MMI, with a zero percent IR. The claimant disputed this certification. The Texas Workers' Compensation Commission (Commission) appointed Dr. G as designated doctor to determine the claimant's MMI date and IR. The designated doctor certified that the claimant reached MMI on March 20, 2000, with an IR of seven percent. The claimant disputed the designated doctor's certification of MMI and IR on the grounds that further treatment was contemplated. The treatment contemplated was implantation of a spinal cord stimulator. The Commission contacted the designated doctor about this contemplated procedure, and he responded that such treatment would not affect either the MMI date or the IR.

Sections 408.122(c) and 408.125(e) of the 1989 Act provide that a report of a Commission-appointed designated doctor shall have presumptive weight on the issues of MMI and IR, and the Commission shall base its determination on such report, unless the great weight of other medical evidence is to the contrary. The Appeals Panel has stated that the great weight of the other medical evidence requires more than a mere balancing or preponderance of the evidence; that no other doctor's report, including a treating doctor's report, is accorded the special presumptive status; that the designated doctor's report should not be rejected absent a substantial basis for doing so; and that medical evidence, not lay testimony, is required to overcome the designated doctor's report. Texas Workers' Compensation Commission Appeal No. 960817, decided June 6, 1996; Texas Workers' Compensation Commission Appeal No. 94835, decided August 12, 1994.

The hearing officer determined that the great weight of the other medical evidence is not contrary to the designated doctor's report. The opinions of the treating doctors that a spinal cord stimulator would be beneficial to the claimant, and that he was not yet at MMI because of that contemplated procedure, represents a difference in medical opinion and simply does not rise to the level of the great weight of the other evidence contrary to the designated doctor's certification of MMI and IR. As such, the hearing officer did not err in giving presumptive weight to the designated doctor's report in accordance with Sections 408.122(c) and 408.125(e).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

C T CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge