

APPEAL NO. 013025
FILED JANUARY 28, 2002

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 November 8, 2001. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is 0%, as certified by Dr. G, the Texas Workers' Compensation Commission-selected designated doctor, in an amended report dated June 9, 2000. The claimant appeals, asserting his disagreement with the IR, and stating that he needs some more time to get an IR from his doctor. The respondent (carrier) replies, urging affirmance.

DECISION

Affirmed.

We note that the hearing officer stated in her Decision and Order that a benefit review conference (BRC) was held on September 8, 2001, while our review of the report of the BRC discloses that the conference was actually held on September 8, 2000. It is important to note the correct date, as it bears directly upon the claimant's request for more time. The BRC report reflects that there was a single unresolved issue after the BRC, the same issue which was before this CCH. The claimant had a 14-month period between the BRC and the CCH to seek an IR from another doctor. He did not present anything at the CCH or on appeal which persuades us that he is entitled to or deserving of any additional time to prepare his case. We decline to grant his request for additional time.

The designated doctor in this case initially evaluated the claimant on January 22, 1999, and certified that the claimant had reached maximum medical improvement (MMI) with a 15% IR, solely for cognitive disorders. After a carrier-selected required medical examination doctor examined the claimant and certified MMI for the day following the claimant's injury (_____) with a 0% IR, the designated doctor was asked to review cognitive test results pertaining to the claimant. Dr. G did so, and responded with an amended report dated June 9, 2000, which contains a 0% IR. Dr. G explained that after reviewing the cognitive test results, she was of the opinion that the claimant did not suffer any cognitive deficit, and that the 0% IR was correct. The designated doctor's response to a request for clarification is considered to have presumptive weight as it is part of the designated doctor's opinion. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) and Texas Workers' Compensation Commission Appeal No. 013042-s, decided January 17, 2002. The hearing officer accepted the amended report and made a specific finding of fact that "Dr. [G's] amended certification of impairment is not contrary to the great weight of the medical evidence." Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. We conclude that the hearing officer's determination 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).

We affirm the decision and order of the hearing officer.

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

**WILLIAM PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge