

APPEAL NO. 013105
FILED FEBRUARY 6, 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 was held on November 28, 2001. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) reached maximum medical improvement (MMI) on August 16, 1999, and that the claimant's impairment rating (IR) is 10%. The claimant appeals, arguing that the great weight of the medical evidence is contrary to the designated doctor's report. The respondent (carrier) contends in its response that the hearing officer properly afforded the designated doctor's opinion presumptive weight.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on August 16, 1999, with a 10% IR. The MMI and IR report of the designated doctor chosen by the Texas Workers' Compensation Commission (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. Sections 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 parties stipulated that the claimant sustained a compensable injury on _____. On August 21, 1999, a carrier-selected required medical examination doctor evaluated the claimant and certified that the claimant reached MMI on August 16, 1999, and assigned an 11% IR. Approximately two months later, on October 19, 1999, the designated doctor certified that the claimant reached MMI on August 16, 1999, and assigned a 10% IR. Almost two years later, the claimant's treating doctor on August 11, 2001, certified that the claimant reached MMI on August 7, 2001, and assigned a 15% IR.

There is conflicting evidence in this case with regard to the MMI date and IR. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer determined that the claimant reached MMI on August 16, 1999, with an IR of 10%, as was certified by the designated doctor in his report of October 19, 1999. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**BOB TALLEY
PARAGON CENTER ONE
450 GEARS ROAD, SUITE #400
HOUSTON, TEXAS 77067.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge