

APPEAL NO. 020451
FILED APRIL 11, 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 February 5, 2002. The hearing officer determined that, in accordance with the certification of the Texas Workers' Compensation Commission (Commission)-designated doctor, Dr. G, the respondent (claimant) reached maximum medical improvement (MMI) on July 20, 2001, with an impairment rating (IR) of 22%. The appellant (carrier) appeals, arguing that the designated doctor did not correctly apply the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides). The claimant did not submit a response to the appeal.

DECISION

Affirmed.

The claimant sustained a crush injury to the right hand on _____. The injury included a fracture of the long finger, which healed uneventfully. Dr. G noted that the claimant had "complete anesthesia from about the mid metacarpal to the tips of the fingers, both on the volar and the palmar side of the hand. There is no response to the 2-point discrimination testing. He cannot even discern 1-point over the involved area." Dr. G called this "an unusual sensory loss involving the entire hand on the dorsum and palmar surface." He did not find any sign of pressure neuropathy or of a more proximal involvement of the brachial plexus. Noting that he did not have any anatomic explanation for the loss of sensation, Dr. G went on to use Figure 5 of the AMA Guides to rate the sensory loss which he found to exist in the claimant's right hand. He certified a 22% IR with an MMI date corresponding to his examination date. The carrier's peer review doctor, Dr. C, asserted that it was improper for the designated doctor to rate the claimant's sensory loss since he could not relate it to a specific pattern of anatomic distribution. Dr. G was provided with the comments of the peer review doctor. He responded that he had attempted to relate the claimant's sensory loss to anatomic distribution, but found that it was not possible to do so in the claimant's case. He pointed out that he considered "the nature of the original injury, which was a crushing type injury," and noted that the medical records of the hand surgeon documented that there was a crush injury with nerve dysfunction. Dr. G considered that the crush injury "could possibly alter the normal presentation." Dr. G did not change his IR. The carrier presented evidence of two evaluations done by the carrier-selected, required medical examination (RME) doctor, Dr. GA, who assigned a 0% IR on each evaluation.

We have previously considered a similar contention that the AMA Guides were not properly used. In Texas Workers' Compensation Commission Appeal No. 960159, decided March 6, 1996 (Unpublished), we said:

We observe that the Appeals Panel has stated that the AMA Guides are not

to be applied mechanically and that "professional judgment must inform every assigned rating, including the components of that rating." Texas Workers' Compensation Commission Appeal No. 960016, decided February 16, 1996.

We discern no error in this case from the designated doctor using his "professional judgment" to determine that the claimant's sensory loss warranted an 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 (Unpublished).

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 RME doctor and the peer review doctor concerning the assignment of a rating for sensory loss represent differences in medical opinion and simply do 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).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge