

APPEAL NO. 020628
FILED APRIL 24, 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 20, 2001. The respondent (claimant) appealed the first decision of the hearing officer that the claimant reached maximum medical improvement (MMI) on April 7, 2000, with an impairment rating (IR) of 6%, as certified by the Texas Workers' Compensation Commission (Commission)-selected designated doctor. In Texas Workers' Compensation Commission Appeal No. 013042-s, decided January 17, 2002, the Appeals Panel held that Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) applied to the case, and that the designated doctor's amended report, dated July 27, 2001, was entitled to presumptive weight. We reversed the hearing officer's decision and remanded the case instructing the hearing officer to consider the amended report of the designated doctor and give it presumptive weight as required by Rule 130.6(i). A hearing on remand was held on February 14, 2002, with the same hearing officer presiding. The hearing officer determined that the correct date of MMI is June 29, 2000 (the statutory MMI date, as stipulated by the parties), and that the claimant's IR is 16%, in accordance with the designated doctor's amended report. The appellant (carrier) appeals, asserting that the Appeals Panel erred in applying Rule 130.6(i) to the first CCH, and that the hearing officer erred in finding that the great weight of the other medical evidence was not contrary to the designated doctor's amended IR. The claimant did not submit a response to the carrier's appeal.

DECISION

Affirmed.

As to the first basis of the carrier's appeal, we explained in Appeal No. 013042-s our rationale for applying the new rule to this case. We adhere to our decision.

As to the second basis of the carrier's appeal, the IR report of the designated doctor chosen by the Commission has presumptive weight and the Commission shall base its determination of IR on that report unless the great weight of the medical evidence is to the contrary. Section 408.125(e). Under Rule 130.6(i) and Appeal No. 013042-s, amended reports from the designated doctor are considered to have presumptive weight. The hearing officer considered the medical evidence and decided that the great weight of the medical evidence was not contrary to the opinion of the designated doctor that the claimant's IR was 16%. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer reviewed the record and resolved what facts were established. We conclude that the hearing officer's determinations are sufficiently supported by the record and are 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 **TEXAS PROPERTY & CASUALTY GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier**, and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
T.P.C.I.G.A.
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge