

APPEAL NO. 020716
FILED APRIL 17, 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 20, 2002. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on April 13, 2001, with a six percent impairment rating (IR) as assessed by the designated doctor whose report was not contrary to the great weight of the other medical evidence.

The claimant appeals, asserting that she had taken pain medication prior to her examination by the designated doctor and that she is not at MMI. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable cervical and thoracic spine injury on _____. Dr. S, a required medical examination doctor for the carrier, in a report of April 9, 2001, certified the claimant at MMI on that date with a zero percent IR. The claimant's treating doctor at the time, Dr. M, on the Report of Medical of Evaluation (TWCC-69), agreed with that rating and on a separate TWCC-69 certified MMI on April 13, 2001, with a zero percent IR. The claimant disputed these ratings and Dr. D was appointed as the Texas Workers' Compensation Commission-selected designated doctor.

Dr. D, in a TWCC-69 and narrative, both dated May 25, 2001, certified MMI on April 13, 2001 (accepting the treating doctor's MMI date) with a six percent IR, based on Table 49 Section (II)(C) of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. Range of motion was measured and a zero percent IR assessed. The claimant's current treating doctor, a chiropractor, only states that the claimant has not reached MMI.

Section 408.125 gives presumptive weight to the report of the designated doctor, which can only be overcome by the great weight of the other medical evidence. The claimant's testimony does not constitute medical evidence and the current treating doctor's comments that the claimant has not reached MMI are insufficient to overcome the presumptive weight of the designated doctor's report even if it were not supported by the reports of Dr. S and Dr. M.

The hearing officer's decision is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

Accordingly, the hearing officer's decision and order are affirmed.

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

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge