

APPEAL NO. 021035
FILED JUNE 12, 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 March 28, 2002. With respect to the single issue before him, the hearing officer determined that the appellant's (claimant) impairment rating (IR) is 11% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In his appeal, the claimant asserts error in the hearing officer's having given presumptive weight to the designated doctor's rating. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

Sections 408.122(c) and 408.125(e) of the 1989 Act provide that an IR report by a Commission-selected designated doctor shall have presumptive weight and the Commission shall base its determination on such report unless the great weight of other medical evidence is to the contrary. The hearing officer determined that the great weight of the other medical evidence is not contrary to the designated doctor's report. The designated doctor did not provide a rating for a lumbar specific disorder under Table 49 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. The claimant argues that the great weight of the other medical evidence is contrary to the designated doctor's decision to assign a 0% rating for both lumbar specific disorder and lumbar range of motion. We find no merit in this assertion. A carrier-selected doctor assigned the only other IR in this file and that doctor also did not provide a rating for a lumbar specific disorder. The claimant's treating doctor initially agreed with that IR despite the fact that it did not include a lumbar specific disorder rating and later criticized the designated doctor's rating for its failure to include lumbar specific disorder impairment. We have long recognized that the determination of what rating to assign for a particular element of an IR is a matter of professional judgment. We cannot agree with the claimant's assertion that the great weight of the other medical evidence is contrary to the designated doctor's opinion in this instance. 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) and in determining that the claimant's IR is 11%.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS INSURANCE OF WAUSAU** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge