

APPEAL NO. 021406  
FILED JUNE 27, 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 May 6, 2002. The disputed issues were maximum medical improvement (MMI) and impairment rating (IR). The hearing officer decided that the appellant's (claimant) IR is zero percent as reported by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appealed and the respondent (carrier) responded.

DECISION

As reformed herein, the hearing officer's decision is affirmed.

It is undisputed that the claimant sustained a repetitive trauma injury to her wrists, with a date of injury of \_\_\_\_\_. The carrier's required medical examination doctor examined the claimant's upper extremities and reported that the claimant reached MMI for her injury of \_\_\_\_\_, on April 18, 2001, with a zero percent IR. The Commission chose a designated doctor to determine MMI and IR for the injury of \_\_\_\_\_, and, according to the designated doctor's report, he examined the claimant's upper extremities and back and reviewed medical records. The designated doctor reported that the claimant reached MMI on April 16, 2001, with a five percent IR. The designated doctor assigned no impairment for the upper extremities and five percent impairment for the lumbar spine. The claimant said that her injury of \_\_\_\_\_, does not include her back. She said she sustained a separate injury to her back in \_\_\_\_\_. A referral doctor disagreed with the designated doctor's report because he believes the claimant needs surgery on her wrists for carpal tunnel syndrome. The claimant has cancelled such surgery three times. In response to a Commission letter for clarification, the designated doctor issued an amended report in which he reported that the claimant reached MMI on April 16, 2001, with a zero percent IR. The designated doctor explained that the findings for the upper extremities would remain the same as stated in his previous report and thus the claimant would have a zero percent IR for her injury of \_\_\_\_\_, which did not include the claimant's back.

The disputed issues were MMI and IR. The designated doctor's MMI and IR report has presumptive weight and the Commission must base its determinations of MMI and IR on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. Sections 408.122(c) and 408.125(e). See *also* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) regarding the designated doctor's response to a Commission request for clarification to be given presumptive weight, and Texas Workers' Compensation Commission Appeal No. 020645, decided May 1, 2002.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In the Statement of the Evidence portion of her decision, the hearing officer stated that the designated doctor's amended report should be afforded presumptive weight as the great weight of the other medical evidence is not contrary to the designated doctor's certification of MMI and IR. The hearing officer made a finding that the great weight of the other medical evidence is not contrary to the determination of the designated doctor and that his findings are entitled to presumptive weight. However, the hearing officer's Conclusion of Law No. 3 and decision state only that the claimant's IR is zero percent, and do not specifically reference MMI. We reform the hearing officer's Conclusion of Law No. 3 and decision to state that the claimant reached MMI on April 16, 2001, with a zero percent IR. As reformed, we conclude that the hearing officer's decision is supported by sufficient evidence and 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 hearing officer's decision and order, as reformed herein, are affirmed.

The true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL**  
**9330 LBJ FREEWAY, SUITE 1200**  
**DALLAS, TEXAS 75243.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge