APPEAL NO. 021453
FILED JULY 15, 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 14, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on March 1, 2000, with an impairment rating (IR) of 13% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In her appeal, the claimant asserts error in the hearing officer's decision to give presumptive weight to the designated doctor's report. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on March 1, 2000, with a 13% IR, as certified by the Commission-selected designated doctor. The claimant asserts that the designated doctor's certification is contrary to the great weight of the other medical evidence and requests adoption of her treating doctor's certification, which she believes fully evaluates her condition. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor is basically a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. The report of the claimant's treating doctor represents a difference in medical opinion, which does not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. As such, the hearing officer did not err in giving presumptive weight to the designated doctor's report and adopting the March 1, 2000, MMI date and the 13% IR. Sections 408.122(c) and 408.125(e).

In her appeal, the claimant requests that she be permitted to retain an attorney to represent her. The parties stipulated that the claimant's compensable injury occurred on _____, and, as of the date of the hearing on May 14, 2002, the claimant had still not availed herself of the opportunity to retain counsel. In addition, at the hearing, the hearing officer specifically asked the claimant if she wanted to proceed with the assistance of the ombudsman and she responded that she did. Accordingly, she cannot now be heard to complain about not having legal representation.

The claimant also asks that another designated doctor be appointed to examine her and to determine her MMI date and IR. This request is apparently premised upon her belief that the designated doctor was biased against her. After carefully reviewing the record, we see no evidence of any such bias and no other basis for appointing a second designated doctor to assess the claimant's MMI and IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

FF
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Michael B. McShane
Appeals Judge