

APPEAL NO. 022379
FILED OCTOBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on August 16, 2002, the hearing officer determined that, based on the amended report of the designated doctor, the appellant (claimant) reached maximum medical improvement (MMI) on October 24, 2000, and that her impairment rating (IR) is four percent. The hearing officer also determined that the claimant had disability from October 25, 2000, through April 30, 2002, albeit she cannot be paid temporary income benefits for that period because she had reached MMI. The claimant has requested our review of the MMI and IR determinations, contending that the designated doctor erred in not changing the MMI date when he reexamined her in March 2002 and increased her IR from one percent to four percent. The respondent (carrier) urges in response that the MMI date and IR of the designated doctor is not contrary to the great weight of the other medical evidence. The finding that as a result of her compensable injury of _____, the claimant was unable to obtain and retain employment at wages equivalent to her preinjury wages for the period beginning October 25, 2000, through April 30, 2002, has not been appealed and has thus become final. Section 410.169.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable left carpal tunnel syndrome, left elbow, and left shoulder injury on _____. According to the medical records and the claimant's testimony, she was first treated conservatively by a medical doctor and returned to work. However, she said she continued to have right upper extremity symptoms including loss of grip strength and tingling, and in July 2000 commenced treatment with a chiropractor who took her off work. The chiropractor selected by the carrier to perform an independent medical examination examined the claimant on October 24, 2000, and determined that she had reached MMI as of that date with an IR of three percent for abnormal range of motion (ROM) in her left upper extremity. The designated doctor, also a chiropractor, examined the claimant on December 4, 2000, and he, too, determined that she had reached MMI as of October 24, 2000. The designated doctor's diagnoses included resolved chest wall strain; resolved wrist strain; resolved elbow strain; resolved shoulder strain, and "cervical spine non-related to the compensable injury." The designated doctor assigned the claimant an IR of one percent for abnormal left elbow and left wrist ROM. The claimant underwent a left carpal tunnel release on August 8, 2001. Acting upon the request of a Texas Workers' Compensation Commission (Commission) benefit review officer for clarification of his MMI date and IR, the designated doctor reexamined the claimant on March 15, 2002, and again determined that she had reached MMI on October 24, 2000. However, he increased her IR to four percent for left upper extremity ROM, which is the rating her current treating chiropractor assigned using the fourth edition of the Guides to

the Evaluation of Permanent Impairment published by the American Medical Association (AMA Guides). The claimant contends that she did not reach MMI before the date of statutory MMI and that the designated doctor erred in making his MMI and IR determinations, given the fact that she had the carpal tunnel release surgery.

Section 408.122(c) and 408.125(e) provide, in part, that the report of the designated doctor shall have presumptive weight and that the Commission shall base its determinations of whether the employee has reached MMI and the employee's IR on such report unless it is contrary to the great weight of the other medical evidence. *And see* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §130.6(i) (Rule 130.6(i)). We are satisfied that the challenged factual determinations of the hearing officer 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The designated doctor's reports reflect that he used the correct edition of the AMA Guides and that, notwithstanding that the claimant had undergone surgery on her left wrist after his initial examination, he understands the definition of MMI.

The decision and order of the hearing officer are affirmed.

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

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

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge