

APPEAL NO. 022600
FILED DECEMBER 2, 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 (CCH) was held on July 25, 2002, with the record closing on September 19, 2002. The hearing officer determined that the respondent's (claimant) compensable injury of _____, does extend to and include an injury to the right shoulder and/or the diagnosed condition of reflex sympathetic dystrophy (RSD); that her impairment rating (IR) is 20%; and that the parties are entitled to another benefit review conference on the issue of the claimant's entitlement to supplemental income benefits (SIBs) for the second quarter prior to adjudication of that dispute at a CCH. The appellant (carrier) appealed on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury of _____, does extend to and include an injury to the right shoulder and/or the diagnosed condition of RSD. Extent of injury is a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's extent-of-injury determination is 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).

The hearing officer did not err in determining that the claimant's IR is 20% as assigned by the designated doctor, Dr. M. On August 22, 2002, Dr. M reexamined the claimant to rate the injury to the right shoulder and aggravation of the RSD of the right upper extremity and he determined in an amended report that the claimant had a 20% IR. The designated doctor's IR report has presumptive weight and the Texas Workers' Compensation Commission (Commission) must base its determination of IR on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. Section 408.125(e). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that that the designated doctor's response to a Commission request for clarification is considered to have presumptive weight. The hearing officer did not err in giving the designated doctor's certification of IR presumptive weight, nor did he err in determining the claimant's IR is 20%. Given our affirmance of the extent-of-injury determination, we likewise affirm the hearing officer's IR determination.

The hearing officer did not err in determining that the issue of the claimant's entitlement to SIBs for the second quarter was not ripe for adjudication. The hearing officer explained that the change in the IR would bring about a concomitant 12-week change in the date of the qualifying period and the second quarter of SIBs. Given our affirmance of the hearing officer's extent-of-injury and IR determinations, we likewise affirm his determination that the issues related to the claimant's entitlement to SIBs are not ripe for adjudication.

The decision and order of the hearing officer are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Veronica Lopez
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge