APPEAL NO. 023044
FILED JANUARY 8, 2003

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 October 30, 2002. The hearing officer determined that the respondent (claimant) has not reached maximum medical improvement (MMI) and that she did have disability from March 21, 2001, through the date of the hearing. The appellant (carrier) appealed and the claimant responded, urging affirmance.

DECISION

Affirmed.

In reaching her decision regarding MMI and disability, the hearing officer determined that the Texas Workers' Compensation Commission (Commission)-selected designated doctor's certification that the claimant reached MMI on January 20, 2002, is against the great weight of the medical evidence. The carrier contends that this determination constitutes reversible error.

The designated doctor's MMI certification has presumptive weight and the Commission must base its determination regarding the date of MMI on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. Section 408.122(c). The disputed issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issue, and the hearing officer concluded that the claimant presented compelling, credible medical evidence that she has not yet reached MMI. In evaluating the medical evidence presented, the hearing officer concluded that the designated doctor's certification of MMI is against the great weight of the medical evidence. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer did not err in determining that the claimant had disability from March 21, 2001, through the date of the hearing. The issue of disability presented a question of fact for the hearing officer. Conflicting evidence was submitted on the issue of disability, and the hearing officer resolved those conflicts in favor of the claimant.

Finding sufficient evidence to support the hearing officer's disability determination, we affirm. Cain.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

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Daniel R. Barry
Appeals Judge

CONCUR:

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Chris Cowan
Appeals Judge

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Gary L. Kilgore
Appeals Judge