APPEAL NO. 030088
FILED FEBRUARY 18, 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 December 10, 2002. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on May 4, 2001, with a zero percent impairment rating (IR). The claimant appeals this decision. The respondent (carrier) urges affirmance of the hearing officer's decision and order.

DECISION

Affirmed.

Sections 408.122(c) and 408.125(e) provide that where there is a dispute as to the date of MMI and the IR, the report of the Texas Workers' Compensation Commission-selected designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that the designated doctor's response to a request for clarification is also considered to have presumptive weight, as it is part of the designated doctor's opinion. *See also*, Texas Workers' Compensation Commission Appeal No. 013042-s, decided January 17, 2002. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor was a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ).

When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). In this case, we are satisfied that the hearing officer's MMI and IR determinations are sufficiently supported by the evidence. Additionally, we note that in accordance with Rule 130.1(c)(2)(B)(ii), the designated doctor properly relied upon the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association in making the MMI/IR certification. Accordingly, we cannot agree that the hearing officer erred in determining that the claimant reached MMI on May 4, 2001, with a zero percent IR.

The hearing officer's decision and order is affirmed.

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

BOBBY E. HAMMOND JR.
1431 GREENWAY DRIVE, SUITE 450
IRVING, TEXAS 75038.

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Chris Cowan
Appeals Judge

CONCUR:

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Thomas A. Knapp
Appeals Judge

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Roy L. Warren
Appeals Judge