APPEAL NO. 030495
FILED APRIL 10, 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 February 4, 2003. The hearing officer determined that the appellant's (claimant) impairment rating (IR) was 10% as assessed by the Texas Workers' Compensation Commission-selected designated doctor, whose report is not overcome by the great weight of the other medical evidence. The issues were maximum medical improvement (MMI) and IR.

The claimant appeals each and every finding of fact and conclusion of law decided against him, contending that he has not reached MMI and that the IR is premature. The claimant points out that the hearing officer did not address the MMI date in her determinations. The respondent (carrier) responds, urging affirmance based on the designated doctor's report.

DECISION

Affirmed as revised.

It is undisputed that the claimant sustained a compensable low back injury on _____, that the claimant had spinal surgery on February 28, 2001, and that the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) (AMA Guides) should be used.

A carrier-required medical examination doctor certified MMI on February 4, 2002, with a 10% IR using "DRE Category III," Table 71, page 3-109. A designated doctor was appointed and in a report dated April 18, 2002, the designated doctor certified MMI was reached on April 16, 2002, with a 10% IR. The IR was assessed based on "DRE Lumbosacral Category III" page 3-102 of the AMA Guides. The designated doctor explained why he did not believe Category IV was appropriate.

The treating doctor maintains that the claimant has not reached MMI, disagrees with the 10% IR, and in a report dated May 30, 2002, states that the claimant "deserves at least a 15 or 16 percent diagnosis based [IR]" without any explanation.

The hearing officer, in her Statement of the Evidence, references the various reports and comments that the report of the designated doctor "shall have presumptive weight." The hearing officer, in Findings of Fact Nos. 3, 4, 5, and 6, references the designated doctor's report and specifically determines that it is afforded presumptive weight and was "not overcome by the great weight of the other medical evidence." The hearing officer's Conclusion of Law and Decision only reference the 10% IR.

We hold that the omission of a specific determination of the MMI date was an administrative omission and that the hearing officer clearly, in her Statement of the Evidence, Finding of Facts, and the "Decision," adopted the designated doctor's report, including the April 16, 2002, MMI date as well as the 10% IR. We revise the Decision to state that the claimant reached MMI on April 16, 2002, and that the IR "is ten (10%) percent."

Otherwise, we conclude that the hearing officer's decision is supported by sufficient evidence and that there is sufficient legal and factual support for the decision.

The hearing officer's decision and order, as revised, are affirmed.

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

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

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge