

APPEAL NO. 031974  
FILED SEPTEMBER 11, 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 June 19, 2003. The hearing officer determined that the appellant's (claimant) impairment rating (IR) was 20% as assessed by the designated doctor selected by the Texas Workers' Compensation Commission (Commission), whose opinion was not contrary to the great weight of other medical evidence. The claimant appealed, contending that the designated doctor's opinion was against the great weight of medical evidence and that the treating doctor's IR of 42% should be adopted. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable (neck and left shoulder) injury on \_\_\_\_\_, reached maximum medical improvement (MMI) on August 26, 2002, and that Dr. V was selected by the Commission to serve as the designated doctor. In a Report of Medical Evaluation (TWCC-69) dated October 23, 2002, Dr. V certified that the claimant reached MMI on August 26, 2002, with a 20% IR. In his narrative report, Dr. V stated that the claimant falls within diagnosis related estimate (DRE) Cervicothoracic Category III of 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). Dr. V assessed the claimant with a 15% whole body impairment for her cervical spinal injury by placing her in DRE Category III. Additionally, Dr. V assigned a 6% whole body rating for the claimant's left shoulder injury. Dr. V was not able to use any range of motion (ROM) testing during his examination because the claimant was unable or would not move her arm as a result of surgery done in August 2002. Combining these two whole body impairments, Dr. V arrived at a 20% IR. In a letter dated December 3, 2002, Dr. F, D.C., one of the claimant's treating doctors, disagreed with Dr. V's 20% IR. Dr. F examined the claimant in November 2002. Dr. F argued that the claimant's loss of motion segment integrity placed her in DRE Category IV for the cervical injury with a whole body impairment of 25% and assessed the claimant's shoulder injuries at 18% whole body impairment using ROM testing. Combining these two whole body impairments, Dr. F arrived at a 42% IR. The Commission sent Dr. F's letter to Dr. V on December 11, 2002, and he responded in a letter dated January 2, 2003, standing by his determination that the claimant's correct IR was 20% and giving his reasons therefore.

The hearing officer did not err in giving presumptive weight to the designated doctor's report, and in determining the claimant's IR in accordance with that report. The difference in the ratings of Dr. F and the designated doctor is attributable to the fact that

the designated doctor placed the claimant in DRE Category III and assigned her a 15% IR from Table 73 of the AMA Guides, while Dr. F placed the claimant in DRE Category IV and assigned a 25% IR. During the hearing the claimant additionally argued that the presence of multilevel radiculopathy would place her in DRE Category IV rather than DRE Category III. The hearing officer noted that there was no medical evidence of any multilevel radiculopathy. We cannot agree that Dr. F's report constitutes the great weight of the other medical evidence contrary to the designated doctor's report. Rather, this is a case where there is a difference of medical opinion between the designated doctor and Dr. F as to whether the claimant is properly rated under DRE Category III or Category IV. The same can be said for the difference of opinion as to the whole body IR for the claimant's shoulder injury and whether ROM testing is needed under the AMA Guides, 4th Edition. We have long held that by giving presumptive weight to the designated doctor, the 1989 Act provides a mechanism for accepting the designated doctor's resolution of such differences. Texas Workers' Compensation Commission Appeal No. 001659, decided August 25, 2000; Texas Workers' Compensation Commission Appeal No. 001526, decided August 23, 2000. We have held that a "great weight" determination requires more than a mere balancing or preponderance of the evidence; that no other doctor's report, including the treating doctor's report, is accorded the special presumptive status; and that the designated doctor's report should not be rejected absent a substantial basis for doing so. Texas Workers' Compensation Commission Appeal No. 960897, decided June 28, 1996.

The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determination on the issues is not against the great weight of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MAYOR  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

---

Thomas A. Knapp  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Gary L. Kilgore  
Appeals Judge