APPEAL NO. 032199
FILED SEPTEMBER 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 July 21, 2003. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on December 17, 2002, with an impairment rating (IR) of 0%, as certified by Dr. B, the designated doctor selected by the Texas Workers' Compensation Commission (Commission). The claimant appeals, arguing that Dr. B did not have the appropriate medical records; that he did not take range of motion measurements; that he only examined his back and did not examine his shoulder and neck; and that the report of a second designated doctor, Dr. H, that the claimant was not at MMI should be considered. The respondent (carrier) responds that the report of Dr. B is entitled to presumptive weight under Section 408.125(c), and has not been overcome by the great weight of other medical evidence.

DECISION

Affirmed.

The claimant in this case sustained a compensable injury on _____. He saw Dr. B on December 17, 2002, for a designated doctor's examination. The hearing officer found that Dr. B examined the claimant on that date and had the appropriate medical records before him. Dr. B found the claimant to be at MMI on that date with a 0% IR. Dr. B provided a response to a Commission letter asking that Dr. B consider the treating doctor's objections to his initial report. Dr. B considered the treating doctor's letter, but declined to change his opinion of MMI and IR.

The question of MMI/IR was somewhat confused in this case by the appointment of Dr. H in February 2003 as a designated doctor for the claimant's March 8, 2001, compensable injury. The appointment came between the time that the claimant saw Dr. B and the time that Dr. B responded to the Commission's letter. The claimant appears to have related the circumstances of the _____, injury to Dr. H, and Dr. H considered that information, along with medical evidence that related to both the March 2001 and the September 2002 injuries, and concluded that the claimant was not at MMI. The claimant alluded to this as evidence showing that Dr. B's certification of MMI and IR was incorrect. Notwithstanding the confusion that occurred in this case, there was only one properly appointed designated doctor. The parties stipulated that Dr. B served as the Commission designated doctor for the _____, injury.

The hearing officer did not err in determining that the claimant reached MMI on December 17, 2002, and that his IR was 0%, in accord with the designated doctor's report, which is accorded presumptive weight under Section 408.125(c). We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer considered the relevant medical

evidence and decided that the great weight of the medical evidence was not contrary to the opinion of the designated doctor. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer reviewed the record and resolved what facts were established. We conclude that the hearing officer's determinations are sufficiently supported by the record and are not 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).

We affirm the decision and order of the hearing officer.

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

MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.

_____
Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Robert W. Potts
Appeals Judge