

APPEAL NO. 032500
FILED NOVEMBER 24, 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 August 19, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on January 21, 2003, with a 0% impairment rating (IR) as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appeals, contending that he is not at MMI because he has psychological problems related to his compensable injury. The respondent (carrier) asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____. Sections 408.122(c) and 408.125(c) provide that the report of the designated doctor has presumptive weight and the Commission shall base its determinations of whether the employee has reached MMI and the IR on the report of the designated doctor unless the great weight of the other medical evidence is to the contrary.

A referral doctor reported on January 15, 2003, that the claimant was not at MMI, and the treating doctor agreed with that assessment. The designated doctor examined the claimant on January 21, 2003, and reported that the claimant reached MMI on that date with a 0% percent IR. The designated doctor noted in her report that she had various medical records, including records from the claimant's licensed professional counselor (LPC). A Commission dispute resolution officer sent a letter from the claimant's representative, which summarized the claimant's treatment, including findings of the LPC, to the designated doctor and asked the designated doctor if the information would change her determinations on MMI and IR. The designated doctor responded that it remained her opinion that the claimant reached MMI on January 21, 2003, and that based upon the claimant's history, physical examination, and review of the available medical records, the claimant has a 0% IR.

The hearing officer found that the great weight of the other medical evidence is not contrary to the findings of the designated doctor, and concluded that the claimant reached MMI on January 21, 2003, with a 0% IR as reported by the designated doctor. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and

preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

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

**RICK KNIGHT
105 DECKER COURT, SUITE 600
IRVING, TEXAS 75062.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge