

APPEAL NO. 033037
FILED JANUARY 5, 2004

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 October 21, 2003. With respect to the issues before him, the hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on February 28, 2002, with a 0% impairment rating (IR) as certified by the Texas Workers' Compensation Commission-selected designated doctor. In his appeal, the claimant essentially argues that the designated doctor's certification is against the great weight of the other medical evidence, and that he reached MMI on January 17, 2003, with a 15% IR as certified by his treating doctor. In its response to the claimant's appeal, the carrier urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in giving presumptive weight to the designated doctor's report, and in determining that the claimant reached MMI on February 28, 2002, with a 0% IR in accordance with that report. The difference in the opinions of the treating doctor and the designated doctor is attributable to the fact that the designated doctor determined that the claimant showed no signs of neurological impairment while the treating doctor believed that the claimant suffers from gait derangement and is entitled to a 15% IR using Table 36(c) 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). We cannot agree that the treating doctor'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 genuine difference of medical opinion between the designated doctor and the treating doctor as to the cause of the claimant's pain behavior. 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. Accordingly, the hearing officer did not err in giving presumptive weight to the designated doctor's report and adopting the February 28, 2002, MMI date and 0% IR.

The hearing officer's decision and order are affirmed.

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

**LEO F. MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge