APPEAL NO. 033276
FILED FEBRUARY 9, 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 November 19, 2003. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant herein) impairment rating (IR) is 5% based upon the report of a designated doctor selected by the Texas Workers' Compensation Commission (Commission). The claimant appealed, arguing that other medical evidence greatly outweighs the IR assigned by the designated doctor, and argues that the designated doctor did not assess the IR according to 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). The respondent (self-insured herein) responded, urging affirmance and arguing that the decision and order are supported by sufficient evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant testified that Dr. Mo is his treating doctor. On October 8, 2002, Dr. Mo certified on a Report of Medical Evaluation (TWCC-69) that the claimant reached maximum medical improvement (MMI) on October 8, 2002, with a 10% whole body IR. The claimant testified that the Commission selected Dr. Meghani (Dr. Me) to be the designated doctor. Dr. Me certified on a TWCC-69 that the claimant attained MMI on October 8, 2002, with a 5% IR.

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 the claimant's treating doctor and the designated doctor is attributable to the fact that the designated doctor placed the claimant in Diagnosis-Related Estimate (DRE) Category II and assigned him a 5% IR from Table 73 of the AMA Guides, while the claimant's treating doctor placed the claimant in DRE Category III and assigned a 15% IR. The claimant's treating doctor opined that the claimant had radiculopathy and the designated doctor stated that the claimant does not have signs of radiculopathy. We cannot agree that the claimant's 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 difference of medical opinion between the designated doctor and the claimant's treating doctor as to whether the claimant is properly rated under DRE Category II or Category III. 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.

We affirm the decision and order of the hearing officer.

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

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

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Margaret L. Turner
Appeals Judge

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Edward Vilano
Appeals Judge