

APPEAL NO. 040071  
FILED MARCH 1, 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 December 10, 2003. With respect to the issues before her, the hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on September 13, 2002, with a 0% impairment rating (IR) as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). 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 May 16, 2003, with a 9% IR as certified by Dr. H, a referral doctor. In its response to the claimant's appeal, the respondent (self-insured) 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 September 18, 2002, with a 0% IR in accordance with that report. The difference in the opinions of Dr. H and the designated doctor is attributable to the fact that the designated doctor determined that the claimant's injury was properly rated under Diagnosis-Related Estimate (DRE) lumbosacral Category I, while the referral doctor believed that the claimant's correct IR is 9%. The Commission sent two letters of clarification to the designated doctor asking about his decision to place the claimant in DRE lumbosacral Category I and the designated doctor declined to change his opinion. We cannot agree that Dr. H's reports 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 referral doctor as to the claimant's correct date of MMI and IR. 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 September 13, 2002, MMI date and 0% IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
300 W. 15TH STREET  
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR  
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
P.O. BOX 13777  
AUSTIN, TEXAS 78711-3777.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge