

APPEAL NO. 040756
FILED MAY 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001. A contested case hearing was held on February 23, 2004. The hearing officer resolved the disputed issues by determining that the appellant's (claimant) _____, compensable injury does not include the cervical spine and that his impairment rating (IR) is 9%, as certified by the Texas Workers' Compensation Commission (Commission)-selected designated doctor. The claimant appeals these determinations. The appeal file contains no response from the respondent (carrier).

DECISION

Affirmed.

Section 408.125(e) provides that for injuries occurring prior to June 17, 2001, where there is a dispute as to the correct IR, the report of the Commission-selected designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that the designated doctor's response to a request for clarification is also considered to have presumptive weight, as it is part of the designated doctor's opinion. See *also*, Texas Workers' Compensation Commission Appeal No. 013042-s, decided January 17, 2002. We have previously discussed the meaning of "the great weight of the other medical evidence" in numerous cases. We have held that it is not just equally balancing the evidence or a preponderance of the evidence that can overcome the presumptive weight given to the designated doctor's report. Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. We have also held that no other doctor's report, including the report of the treating doctor, is accorded the special, presumptive status accorded to the report of the designated doctor. Texas Workers' Compensation Commission Appeal No. 92366, decided September 10, 1992; Texas Workers' Compensation Commission Appeal No. 93825, decided October 15, 1993.

Whether the claimant's compensable injury included his cervical spine and whether the designated doctor's report was contrary to the great weight of the other medical evidence were factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Nothing in our review of the record indicates that the hearing officer's determinations on the appealed issues are 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).

The decision and order of the hearing officer are affirmed.

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

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

Chris Cowan
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge