

APPEAL NO. 041518  
FILED AUGUST 11, 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 May 19, 2004. The hearing officer determined that: (1) the appellant's (claimant) compensable injury of \_\_\_\_\_, does not extend to include an annular tear at L4-5, radiculopathy, urinary urgency/incontinence, and anxiety/depression; and (2) that the claimant reached maximum medical improvement (MMI) on July 19, 2002, with a five percent impairment rating (IR), as certified by the Texas Workers' Compensation Commission (Commission) designated doctor, Dr. K. The claimant appealed the adverse determinations on sufficiency grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We have reviewed the complained-of determination regarding extent of injury and conclude that this issue involved a fact question for the hearing officer to resolve. There was conflicting medical evidence in the record. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is not 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).

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 MMI and IR on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. 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. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor was a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. 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. We conclude that the hearing officer's determinations regarding MMI and IR are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

We affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge