APPEAL NO. 041597
FILED AUGUST 23, 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 (CCH) was held on May 27, 2004. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is 14% as certified by the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. The claimant appealed, attaching additional medical records and arguing that his correct IR is 17% as certified by a respondent (self-insured)-selected required medical examination (RME) doctor. The self-insured responded, objecting to the additional evidence attached to the claimant's appeal, and otherwise urging affirmance.

DECISION

Affirmed.

On appeal, the claimant requests that we consider evidence not presented at the CCH. Our review of the case is limited to the record developed at the CCH and we will not normally consider documents or evidence submitted for the first time on appeal. *See* Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ) for the standard which might require a remand. In that the evidence the claimant desires us to consider all appear to have been available at the time of the CCH we do not find a remand warranted or appropriate, and we will not consider those documents on appeal.

On appeal, the claimant appears to be arguing that the self-insured waived the right to challenge the 17% IR which was certified by the RME doctor selected by the self-insured. On October 17, 2001, the RME doctor certified that the claimant had reached maximum medical improvement (MMI) as of the statutory date, March 30, 2001, with a 17% IR. This rating was never disputed, and the Commission subsequently found that the claimant was entitled to first quarter supplemental income benefits (SIBs). It is undisputed that the first quarter began on March 23 and ended on June 21, 2002. It is also undisputed that the self-insured paid first quarter SIBs. Commission records indicate that the self-insured disputed the claimant's IR and filed its Request for Designated Doctor (TWCC-32) on June 20, 2002. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(g) (Rule 130.102(g)) provides that if there is no pending dispute regarding the date of MMI or the IR prior to the expiration of the first quarter of SIBs, the date of MMI and the IR shall be final and binding. In the instant case, the self-insured filed its dispute of the claimant's IR one day prior to the end of the first quarter of SIBs, therefore the IR had not become final and binding under Rule 130.102(g).

We note that the claimant sustained his compensable injury on _____. Section 408.125(e) provides that where there is a dispute as to the IR, the report of the Commission-appointed designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. 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 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. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record indicates that the hearing officer’s decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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 SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Margaret L. Turner
Appeals Judge