

APPEAL NO. 041615  
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 was held on June 11, 2004. With respect to the single issue before him, the hearing officer determined that the appellant's (claimant) impairment rating (IR) is 5% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In his appeal, the claimant essentially argues that the hearing officer erred in giving presumptive weight to the designated doctor's IR. In its response to the claimant's appeal, the carrier urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that he reached maximum medical improvement on November 5, 2003; and that Dr. M was selected by the Commission to serve as the designated doctor. Dr. M assigned a 5% IR pursuant 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) for Diagnosis-Related Estimate (DRE) Cervicothoracic Category II, minor impairment. The claimant's treating doctor, Dr. P assigned a 15% IR in accordance with DRE Cervicothoracic Category III, radiculopathy.

The claimant argues that her IR should be the 15% certified by her treating doctor. As noted above the difference in the ratings of the designated doctor and the treating doctor is attributable to the fact that the treating doctor assigned a rating for cervical radiculopathy and the designated doctor did not. We cannot agree that the 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 genuine difference of medical opinion between the designated doctor and the treating doctor as to whether the claimant is entitled to a rating for cervical radiculopathy. 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 5% IR.

The hearing officer's decision and order are affirmed.

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

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300  
IRVING, TEXAS 75063.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge