APPEAL NO. 120305
FILED APRIL 18, 2012

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 January 24, 2012, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on August 5, 2011, and the claimant's impairment rating (IR) is 0%. The claimant appealed, disputing the hearing officer's determinations of MMI and IR. The respondent (carrier) responded, urging affirmance.

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on [date of injury]; and that [Dr. M] was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) as the designated doctor to examine the claimant and provide opinions regarding MMI, IR, and return to work.

Section 408.1225(c) provides that the report of the designated doctor has presumptive weight, and the Division shall base its determination of whether the employee has reached MMI on the report of the designated doctor unless the preponderance of the other medical evidence is to the contrary.

Section 408.125(c) provides that the report of the designated doctor shall have presumptive weight, and the Division shall base the IR on that report unless the preponderance of the other medical evidence is to the contrary, and that, if the preponderance of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Division, the Division shall adopt the IR of one of the other doctors.

The hearing officer found that the appointed designated doctor, Dr. M, "from his examination on August 5, 2011, Dr. [M] certified that the [c]laimant reached clinical [MMI] on August 5, 2011, and assigned a 0% [IR]." However, the record reflects that Dr. M examined the claimant on August 15, 2011, and certified that the claimant reached MMI on July 1, 2011, with a 0% IR.

Additional certifications of MMI/IR were in evidence. The claimant's treating doctor, [Dr. T] examined the claimant on August 25, 2011, and certified that the claimant reached MMI on August 25, 2011, with a 4% IR. Certifications of MMI/IR were also in evidence from a post-designated doctor required medical examination doctor, [Dr. Tr].

Dr. Tr examined the claimant on January 12, 2012, and certified that the claimant reached MMI on April 18, 2011, with a 0% IR. Dr. Tr also provided an alternative certification with the same MMI date as certified by Dr. M, July 1, 2011, with a 0% IR; and an alternative certification with the same MMI date as certified by Dr. T, August 25, 2011, with a 0% IR.

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. *See* Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

There is no certification of MMI/IR in evidence with an MMI date of August 5, 2011, as determined by the hearing officer. Accordingly, we reverse the hearing officer's determination that the claimant reached MMI on August 5, 2011, and the claimant's IR is 0% and remand the issues of MMI and IR to the hearing officer for a determination of MMI and IR supported by the evidence. No additional evidence is required.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. *See* Appeals Panel Decision 060721, decided June 12, 2006.

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

CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3232.

Margaret L. Turner
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Thomas A. Knapp
Appeals Judge