

APPEAL NO. 132528
FILED DECEMBER 9, 2013

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 September 3, 2013, with the record closing on September 23, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of [date of injury], does not extend to bilateral carpal tunnel syndrome (CTS) or bilateral cubital tunnel syndrome (CuTS); and (2) the appellant's (claimant) impairment rating (IR) is 0%.

The claimant appealed, disputing the hearing officer's determinations of the extent of the compensable injury and the IR. The claimant argues that there were doctors' reports that supported finding that her compensable injury extended to bilateral CTS and bilateral CuTS. The claimant argues that the correct IR is 14%. The respondent (self-insured) responded, urging affirmance of the disputed determinations.

DECISION

Affirmed in part and reversed and rendered in part.

The claimant testified she injured her upper extremities when changing out a coffee urn at work. Although not recited in the decision and order, the record reflects that the parties stipulated that the claimant sustained a compensable injury on [date of injury]. The parties additionally stipulated that the claimant reached maximum medical improvement (MMI) on November 30, 2011. It is undisputed that the self-insured has accepted a right wrist sprain/strain. [Dr. L] was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) as the second designated doctor for the purposes of MMI and IR.

EXTENT OF INJURY

The hearing officer's determination that the compensable injury does not extend to bilateral CTS or bilateral CuTS is supported by sufficient evidence and is affirmed.

IR

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. See 28 TEX. ADMIN. CODE § 130.1(c)(3) (Rule 130.1(c)(3)).

There are three certifications in evidence. The first designated doctor, [Dr. B], examined the claimant on July 14, 2010, and certified that the claimant had not yet reached MMI. The second designated doctor, Dr. L examined the claimant on April 1, 2013, and certified that the claimant reached MMI on November 30, 2011, with a 14% IR. The hearing officer correctly found that Dr. L's determination of the 14% IR included impairment resulting from the claimant's noncompensable conditions of bilateral CTS and bilateral CuTS. A letter of clarification was sent to Dr. L dated April 22, 2013, and stated the accepted compensable injury is a right wrist sprain/strain and requested that Dr. L provide a certification of MMI/IR that takes into account only the accepted compensable right wrist sprain/strain. Dr. L responded with an amended Report of Medical Evaluation (DWC-69) and an addendum dated April 24, 2013. Dr. L assessed the claimant's impairment using 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), based on the range of motion (ROM) measurements obtained from his examination of April 1, 2013. Dr. L noted the ROM obtained as follows: flexion 60°; extension 40°; radial deviation 20°; and ulnar deviation 30°. Dr. L noted in his addendum that based on the ROM measurements the claimant's IR is 0%. According to the AMA Guides the impairment assessed for the ROM measurements reported for radial deviation, ulnar deviation, and flexion are correct. However, the impairment assessed for the ROM measurements reported for extension is incorrect.

According to Figure 29 on page 3/38 of the AMA Guides, a measurement of 30° for ulnar deviation results in 0% impairment; a measurement of 20° for radial deviation results in 0% impairment. According to Figure 26 on page 3/36 of the AMA Guides, a measurement of 60° for flexion results in 0% impairment. However, according to Figure 26 of the AMA Guides a measurement of 40° for extension results in 4% upper extremity (UE) impairment rather than 0% impairment as reported by Dr. L.

With the correct assigned impairments for the right wrist, the right wrist impairment is calculated by adding: radial (0%); ulnar (0%); flexion (0%); and extension (4%), which results in 4% UE impairment. Using Table 3, page 3/20, 4% UE converts to 2% whole person impairment.

The Appeals Panel has previously stated that, where the certifying doctor's report provides the component parts of the rating that are to be combined and the act of combining those numbers is a mathematical correction which does not involve medical judgment or discretion, the Appeals Panel can recalculate the correct IR from the

figures provided in the certifying doctor's report and render a new decision as to the correct IR. See Appeal Panel Decision (APD) 041413, decided July 30, 2004; APD 100111, decided March 22, 2010; and APD 101949, decided February 22, 2011.

Under the guidance of those cases, using Dr. L's measurements, and applying the AMA Guides, the loss of ROM for the right wrist results in 2% whole person impairment, as discussed above. Accordingly, we reverse the hearing officer's decision that the claimant has a 0% IR and we render a new decision that the claimant's IR is 2%, per a mathematical correction.

SUMMARY

We affirm the hearing officer's determination that the compensable injury does not extend to bilateral CTS or bilateral CuTS.

We reverse the hearing officer's determination that the claimant's IR is 0% and render a new decision that the claimant's IR is 2%, per a mathematical correction.

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

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

Margaret L. Turner
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Carisa Space-Beam
Appeals Judge