

APPEAL NO. 152179
FILED DECEMBER 15, 2015

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 September 28, 2015, in Denton, 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), extends to a lumbar sprain/strain and a right knee sprain/strain, but does not extend to a lumbar disc protrusion at L5-S1 or lumbar disc displacement; (2) the appellant (claimant) reached maximum medical improvement (MMI) on June 6, 2014; and (3) the claimant's impairment rating (IR) is zero percent.

The claimant appealed, disputing that portion of the hearing officer's determination that the compensable injury does not extend to a lumbar disc protrusion at L5-S1 or lumbar disc displacement. Additionally, the claimant disputes the hearing officer's determinations of MMI and IR arguing that the certification adopted by the hearing officer does not rate all the injuries associated with this claim. The respondent (carrier) responded, urging affirmance of the disputed extent of injury, MMI, and IR determinations. That portion of the hearing officer's determination that the compensable injury extends to a lumbar sprain/strain and a right knee sprain/strain was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated in part that the claimant sustained a compensable injury on (date of injury), and that (Dr. L) was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) as designated doctor on the issues of MMI, IR, and extent of injury. The claimant testified she was injured when she fell on an uneven sidewalk.

EXTENT OF INJURY

That portion of the hearing officer's determination that the compensable injury does not extend to a lumbar disc protrusion at L5-S1 or lumbar disc displacement is supported by sufficient evidence and is affirmed.

MMI

Section 401.011(30)(A) defines MMI as “the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated.” 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. The hearing officer found that the certification of MMI and assigned IR of Dr. L is not contrary to the preponderance of the medical evidence. That finding is supported by sufficient evidence.

Dr. L provided alternative certifications of MMI/IR based on the various conditions alleged to be part of the compensable injury. No certification from Dr. L in evidence certified that the claimant reached MMI on June 6, 2014. Dr. L certified that the claimant was not at MMI when considering the lumbar disc protrusion and lumbar disc displacement. In the certification of MMI considering the conditions accepted by the carrier to be compensable and the conditions determined in this CCH to be compensable, Dr. L certified that the claimant reached MMI on June 16, 2014, not June 6, 2014. In the accompanying narrative report, Dr. L explained that the claimant reached MMI on June 16, 2014, because by June 16, 2014, the claimant was able to complete a full course of therapy and the conditions of sprain/strain and contusions would have been resolved. There is no certification in evidence from any doctor that certified that the claimant reached MMI on June 6, 2014. Accordingly, we reverse the determination that the claimant reached MMI on June 6, 2014, and render a new decision that the claimant reached MMI on June 16, 2014, to conform to the evidence.

IR

The hearing officer’s determination that the claimant’s IR is zero percent is supported by sufficient evidence and is affirmed.

SUMMARY

We affirm the hearing officer’s determination that the compensable injury does not extend to a lumbar disc protrusion at L5-S1 or lumbar disc displacement.

We affirm the hearing officer’s determination that the claimant’s IR is zero percent.

We reverse the determination that the claimant reached MMI on June 6, 2014, and render a new decision that the claimant reached MMI on June 16, 2014.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE 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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge