

## APPEAL NO. 950294

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), a contested case hearing was held in (city), Texas, on January 31, 1995, (hearing officer) presiding as hearing officer. He determined that the respondent's (claimant) correct impairment rating (IR) was 19% in accordance with an amended report of the Texas Workers' Compensation Commission (Commission)-selected designated doctor. The appellant (carrier) urges that either a new designated doctor be appointed or that the 12% IR of the treating doctor be adopted as the IR. The claimant asks that the decision be affirmed.

### DECISION

Affirmed.

The claimant sustained a compensable injury (carpal tunnel syndrome) on (date of injury), and subsequently had surgery on both hands. Maximum medical improvement was reached on December 4, 1993. The only issue in the case was the correct IR. The claimant's treating doctor assessed a 12% IR which was disputed. The claimant was sent to a Commission-selected designated doctor, (Dr. L), who in a detailed, comprehensive report initially assessed an IR of 23%. Following an inquiry concerning questions that the benefit review officer had about the report, Dr. L revised his report to a 21% IR acknowledging some clerical error in his initial report. The carrier apparently had the IR reviewed which resulted in assertions of several other errors. Dr. L rendered an amended report dated January 25, 1995, wherein he revised his report assessing the IR at 19%. The hearing officer determined that Dr. L's IR had not been overcome by the great weight of contrary medical evidence.

The carrier argues that since there have been three IR reports by Dr. L, it is apparent that he does not understand the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), which are required under the 1989 Act, or that he has demonstrated an inability to render an IR in accordance with the AMA Guides. Also, they fault Dr L's rounding up of a figure from 10.45% to 11% and his explanation therefor. Thus, it urges that a new designated doctor should be appointed or the report of another doctor used for IR.

We agree that multiple changes in IR assessments by designated doctors can tend to undermine confidence in the doctor's report, particularly since it is given presumptive weight under the 1989 Act. Section 408.125(e). However, it is not reasonable to expect that errors will never occur and that initial reports will unfailingly be perfect particularly when considering the comprehensive, complex, and somewhat controversial nature of some provisions of the AMA Guides. Indeed, it is not unusual for some clarification to be needed and the Appeals Panel has approved seeking clarification and correction at the earliest possible stage of the process. Texas Workers' Compensation Commission Appeal No.

94042, decided February 22, 1994; Texas Workers' Compensation Commission Appeal No. 93600, decided August 31, 1993. A designated doctor's report can be amended for proper reason and the correction of an error falls within that category. Texas Workers' Compensation Commission Appeal No. 950147, decided March 1, 1995. After our review of the reports in evidence, we find no basis on this ground to grant the relief requested by the carrier.

Regarding the assertion that error occurred in Dr. L's rounding of 10.45 to 10.50 and then 10.50 to 11%, we do not agree with this method of "double" rounding. However, we do not find this to be of consequence since in the January 25, 1995, report amending the IR to 19%, Dr. L shows that he used 10% for that particular upper extremity rating. His whole person impairment shows he used the combined values chart to combine 10% and 10% (right and left upper extremity) to determine the 19% whole person IR. There is no error to correct. Accordingly, the decision and order of the hearing officer are affirmed.

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Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

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Lynda H. Nesenholtz  
Appeals Judge

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Tommy W. Lueders  
Appeals Judge