

APPEAL NO. 980030

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 June 12, 1997. In Texas Workers' Compensation Commission Appeal No. 971368, decided September 2, 1997, we affirmed the impairment rating (IR) determined by a designated doctor and remanded the case for further consideration on the issue of the appropriate reduction of the respondent's (claimant) impairment income benefits (IIBS) and supplemental income benefits (SIBS) on contribution from an earlier compensable injury and the proportion. The hearing officer reconsidered the remanded issue and in a decision dated December 12, 1997, found that, of the 30% IR certified by the designated doctor, 16% concerning range of motion pre-existed due to claimant's prior lumbar and cervical spine injuries. In her conclusion and decision, the hearing officer determined the appropriate reduction of the claimant's IIBS and SIBS "on contribution from an earlier compensable injury is 53.3% or 16%." On appeal, the appellant (carrier) complains that this language is objectionable, confusing, and not correct and asks that we reverse and render or affirm with a reformation of the language to reflect the correct reduction percentage of 53.3%. No response has been filed.

DECISION

Affirmed as reformed.

The facts of the case are fully set forth in our prior decision and will not be set out here. On remand the hearing officer clearly accepted the report of a (Dr. C) and his calculation of the impairment from the new injury and the prior injuries. Of the total 30% IR, Dr. C concluded that only 14% of the 30% related to the new injury and that 16% of the 30% was attributable to the prior injuries. Thus, using that ratio, the IIBS and SIBS would be reduced by 53.3%. We agree that the language employed tended to be confusing and seems to state two different percentages of reduction. We reform the language in the conclusion of law and decision to reflect "The appropriate reduction of the claimant's impairment and supplemental income benefits on contribution from an earlier compensable injury is 53.3%." As reformed, the decision and order are affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Judy L. Stephens
Appeals Judge