APPEAL NO. 181516
FILED AUGUST 21, 2018

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 May 14, 2018, with the record closing on May 25, 2018, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the appellant (claimant) reached maximum medical improvement (MMI) on August 18, 2017; and (2) the claimant's impairment rating (IR) is eight percent. The claimant appealed, disputing the ALJ's determinations of MMI and IR. The respondent (self-insured) responded, urging affirmance of the disputed MMI and IR determinations.

DECISION

Affirmed as reformed.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), which included a left shoulder sprain/strain and a cervical sprain/strain and that per the August 18, 2017, certification of the Texas Department of Insurance, Division of Workers' Compensation (Division)-selected designated doctor, (Dr. C), the claimant reached MMI on August 18, 2017. The claimant testified that she was injured when she attempted to restrain an individual while in the course and scope of her employment.

The ALJ is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error, unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

**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 designated doctor, Dr. C, initially examined the claimant on March 24, 2017, and certified that the claimant had not yet reached MMI. The designated doctor subsequently examined the claimant on August 18, 2017. The designated doctor certified that the claimant reached MMI on August 18, 2017, the same date as her examination. The parties stipulated that the claimant reached MMI on August 18, 2017, per the certification of the designated doctor. We note that the doctor selected by the treating doctor to act in his place also certified that the claimant reached MMI on August 18, 2017. One of the issues certified for resolution before the ALJ was the issue of MMI. The ALJ decided that the claimant reached MMI on August 18, 2017. The ALJ's decision that the claimant reached MMI on August 18, 2017, is supported by sufficient evidence and is affirmed. However, the ALJ failed to make a conclusion of law regarding the MMI date. Accordingly, we reform the decision to include a conclusion of law that the claimant reached MMI on August 18, 2017.

**IR**

The ALJ's determination that the claimant's IR is eight percent as assigned by the designated doctor is supported by sufficient evidence and is affirmed.

The true corporate name of the insurance carrier is **TRAVIS COUNTY (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**HONORABLE JUDGE SARAH ECKHARDT**
**700 LAVACA, SUITE 2.300**
**AUSTIN, TEXAS 78701**.

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge