

APPEAL NO. 042077
FILED OCTOBER 11, 2004

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 July 23, 2004. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on February 18, 2004, with a 0% impairment rating (IR). The claimant appealed, arguing that the hearing officer's MMI and IR determinations are against the great weight and preponderance of the evidence. The claimant additionally asserts that the hearing officer abused his discretion in determining the issues in dispute. The appeal file does not contain a response from the respondent (self-insured).

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right knee injury on _____. It is undisputed that the claimant underwent reconstructive surgery for an anterior cruciate ligament tear of the right knee on July 8, 2003. The Texas Workers' Compensation Commission (Commission)-appointed designated doctor determined that the claimant reached MMI on February 18, 2004, with a 0% IR using the range of motion (ROM) method. In a letter dated March 3, 2004, the claimant's treating doctor opined that the claimant had a cruciate ligament laxity of the right knee and that condition should be rated under Table 64 of 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). In a letter of clarification dated April 6, 2004, the designated doctor stated that on the date of examination he was "unable to document any laxity of the knee." The claimant's treating doctor determined that the claimant reached MMI on April 29, 2004, with a 10% IR based on a severe cruciate ligament laxity diagnosis using Table 64 of the AMA Guides.

The hearing officer did not err in not giving presumptive weight to the designated doctor's report. The hearing officer noted that the designated doctor and the treating doctor had different opinions as to which method, ROM or diagnosis, to rate the claimant's injury, and whether the claimant had a cruciate ligament laxity diagnosis. We have long held that by giving presumptive weight to the designated doctor, the 1989 Act provides a mechanism for accepting the designated doctor's resolution of such differences. Texas Workers' Compensation Commission Appeal No. 001659, decided August 25, 2000; Texas Workers' Compensation Commission Appeal No. 001526, decided August 23, 2000. Accordingly, the hearing officer did not err in giving presumptive weight to the designated doctor's report. Nothing in our review of the record reveals that the hearing officer erred in making that determination. As such, the hearing officer properly determined that the designated doctor's report was not contrary

to the great weight of the other evidence and was, therefore, entitled to presumptive weight.

In addition, we find no abuse of discretion in the hearing officer's MMI and IR determinations.

The hearing officer's decision and order are affirmed.

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

**SR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge