

APPEAL NO. 240501  
FILED MAY 23, 2024

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 March 4, 2024, with the record closing on March 18, 2024, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the respondent's (claimant) impairment rating (IR) is 15%. The appellant (carrier) appealed the ALJ's determination of the claimant's IR. The claimant responded, urging affirmance of the IR determination.

DECISION

Reversed and rendered.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), in the form of facial lacerations and contusions, bilateral shoulder sprain and strain, cervical sprain and strain, left shoulder supraspinatus tear, and left shoulder labral tear; the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. P) as designated doctor regarding the issues of maximum medical improvement (MMI) and IR; the statutory date of MMI is June 28, 2023; the claimant reached MMI on the statutory date of June 28, 2023; and for the purposes of MMI and IR, the terms strain and sprain are interchangeable and used synonymously.

Section 408.125(c) provides that the report of the designated doctor shall have presumptive weight, and the Division shall base the IR on that report unless the preponderance of the other medical evidence is to the contrary, and that, if the preponderance of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Division, the Division shall adopt the IR of one of the other doctors. 28 Tex. Admin. Code § 130.1(c)(3) (Rule 130.1(c)(3)) provides, in part, that the assignment of an IR for the current compensable injury shall be based on the injured employee's condition as of the MMI date considering the medical record and the certifying examination. The ALJ found that the preponderance of the other medical evidence is not contrary to Dr. P's certification that the claimant reached MMI on June 28, 2023, with a 15% IR.

Dr. P examined the claimant on November 18, 2023, and certified that the claimant reached MMI on June 28, 2023, and assigned a 15% IR based on the compensable conditions using 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). Dr. P

assessed 0% impairment for facial lacerations and contusions. Dr. P assessed 4% whole person impairment (WPI) for the right shoulder based on range of motion (ROM) measurements. Dr. P placed the claimant in Diagnosis-Related Estimate Cervicothoracic Category II: Minor Impairment of the AMA Guides and assessed 5% WPI. Dr. P's narrative report reflects the following left shoulder ROM measurements used to assess impairment: flexion 110°, extension 50°, abduction 100°, adduction 50°, internal rotation 60°, and external rotation 80°. Dr. P calculated these impairments to upper extremity (UE) impairment, which the doctor converted to 6% WPI using Table 3 on page 3/20 of the AMA Guides.

However, Dr. P made a mistake in calculating the impairment for the left shoulder. Figure 38 on page 3/43 of the AMA Guides provides that 110° of flexion results in 5% UE impairment and 50° of extension results in 0% impairment. Figure 41 on page 3/44 of the AMA Guides provides that 100° of abduction results in 4% UE impairment and 50° of adduction results in 0% impairment. Figure 44 on page 3/45 of the AMA Guides provides that 60° of internal rotation results in 2% UE impairment and 80° of external rotation results in 0% impairment. Adding the UE assessed for the left shoulder results in 11% UE impairment which converts to 7% WPI rather than the 6% WPI assessed by Dr. P for the left shoulder. Dr. P correctly assessed 4% WPI for the right shoulder using the ROM reported in the narrative report.

The Appeals Panel has previously stated that, where the certifying doctor's report provides the component parts of the rating that are to be combined and the act of combining those numbers is a mathematical correction which does not involve medical judgment or discretion, the Appeals Panel can recalculate the correct IR from the figures provided in the certifying doctor's report and render a new decision as to the correct IR. See Appeals Panel Decision (APD) 171766, decided September 7, 2017; APD 172488, decided December 18, 2017; APD 152464, decided February 17, 2016; APD 121194, decided September 6, 2012; APD 041413, decided July 30, 2004; APD 100111, decided March 22, 2010; and APD 101949, decided February 22, 2011. Dr. P's assigned IR can be mathematically corrected based on the documented measurements for the left shoulder.

Adding the UE impairments based on the left shoulder ROM measurements used by Dr. P results in 11% UE impairment, which converts to 7% WPI, not 6% WPI as assigned by Dr. P. Combining 7% WPI assessed for the left shoulder with 5% WPI assessed for the cervical spine, combined with 4% WPI assessed for the right shoulder, and 0% WPI impairment assessed for the facial lacerations and contusions results in 16% WPI rather than the 15% WPI assessed by Dr. P.

The ALJ found that the preponderance of the other medical evidence is not contrary to the certification of Dr. P. After a mathematical correction, that finding is supported by the evidence.

Accordingly, we reverse the ALJ's determination that the claimant's IR is 15%, and we render a new decision that the claimant's IR is 16%, as mathematically corrected.

The true corporate name of the insurance carrier is **PROPERTY AND CASUALTY INSURANCE COMPANY OF HARTFORD** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS, TEXAS 75201-3136.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Cristina Beceiro  
Appeals Judge

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Carisa Space-Beam  
Appeals Judge