

APPEAL NO. 020118
FILED MARCH 4, 2002

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 December 5, 2001. The hearing officer resolved the disputed issue by deciding that the first certification of maximum medical improvement (MMI) and impairment rating (IR) assigned by Dr. K did not become final pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)). The appellant (carrier) appealed. No response was received from the respondent (claimant).

DECISION

The hearing officer's decision is affirmed.

The claimant was examined by Dr. K at the carrier's request on October 17, 2000, and Dr. K reported that the claimant reached MMI on October 17, 2000, with a zero percent IR. The hearing officer found that the claimant's treating doctor disputed Dr. K's certification of MMI and IR on the claimant's behalf within 90 days and that the first certification of MMI and IR assigned by Dr. K did not become final under Rule 130.5(e). The carrier appeals, contending that the treating doctor's disagreement with Dr. K's certification of MMI and IR was not a dispute on behalf of the claimant.

The amended version of Rule 130.5(e), effective March 13, 2000, is the version of Rule 130.5(e) that is applicable to this case. In Texas Workers' Compensation Commission Appeal No. 020014-s, decided February 26, 2002, the Appeals Panel held that the reasons stated in Fulton v. Associated Indemnity Corporation, 46 S.W.3d 364 (Tex. App.-Austin 2001, pet. denied) for holding the original Rule 130.5(e) (the 90-day rule) invalid also apply to the amended Rule 130.5(e).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Edward Vilano
Appeals Judge