

APPEAL NO. 020249
FILED MARCH 15, 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 6, 2001. The hearing officer determined that the first certification of maximum medical improvement (MMI) and impairment rating (IR) became final under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)). The appellant (claimant) appeals the determination on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Reversed and rendered.

The claimant asserts that he disputed the first certification of MMI/IR within 90 days of receiving written notice, and, alternatively, his condition was misdiagnosed by the certifying doctor. The hearing officer's decision is reversed and rendered on other grounds.

In Fulton v. Associated Indemnity Corporation, 46 S.W.3d 364 (Tex. App.-Austin 2001, pet. denied), the court determined that the original version of Rule 130.5(e), effective January 25, 1991, was invalid. See also Texas Workers' Compensation Commission Appeal No. 013201-s, decided February 21, 2002. The Appeals Panel has since held that the reasons stated in the Fulton decision for holding the original rule invalid also apply to the version of Rule 130.5(e) applicable to this case. Texas Workers' Compensation Commission Appeal No. 020014-S, decided February 26, 2002. Accordingly, we reverse the hearing officer's decision that the first certification of MMI/IR became final under Rule 130.5(e), and we render a new decision that the first certification of MMI/IR did not become final.

The true corporate name of the insurance carrier is **FIDELITY & GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge