

APPEAL NO. 022882
FILED DECEMBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The case was reconsidered on remand from Texas Workers' Compensation Commission Appeal No. 022049, decided September 18, 2002, without another contested case hearing. He determined that the designated doctor's opinion was not entitled to presumptive weight and was outweighed by the contrary medical evidence, and he adopted the impairment rating of one of the other doctors, which was 16%. He reformed the date of maximum medical improvement (MMI) to reflect the date of statutory MMI.

The appellant (carrier) appeals, arguing that the designated doctor's opinion was properly done and no amendment was necessary because the surgery was not under active consideration at the time of his initial examination. The carrier argues that the previous Appeals Panel decision went against prevailing authority and that there was no basis for concluding that the designated doctor was attempting to apply 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) when he declined to account for the respondent's (claimant) spinal surgery. The claimant responds that the decision was correct and based upon the record.

DECISION

We affirm the hearing officer's decision.

At the outset, we note that while it might have been the better practice to reconvene a hearing, this was left to the hearing officer's discretion in the remand. The carrier complains that the opinion adopted by the hearing officer was based on an examination performed a year after MMI. We have reviewed the record and cannot agree that the determination of the hearing officer was against the great weight and preponderance of the evidence. The previous decision remanding the case is responsive to many of the reappealed issues and is incorporated herein by reference.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ILLINOIS NATIONAL INSURANCE 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**

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge