APPEAL NO. 030525
FILED APRIL 14, 2003

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 October 3, 2002. The hearing officer determined that (1) the first certification of maximum medical improvement (MMI) and impairment rating (IR) became final; and (2) the respondent's (claimant) IR is 13%, consistent with the first certification. In Texas Workers' Compensation Commission Appeal No. 022835, decided December 23, 2002, the Appeals Panel reversed and rendered a decision that the first certification of MMI/IR did not become final, and reversed and remanded for further consideration of the claimant's IR. On remand, the hearing officer determined that the claimant's IR is 19% as certified in the amended report of the designated doctor appointed by the Texas Workers' Compensation Commission (Commission). The appellant (carrier) appeals, reurging its position that the initial IR certification became final. The carrier does not assert that the designated doctor's amended report is contrary to the great weight of other medical evidence. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's IR is 19% as certified in the amended report of the Commission-appointed designated doctor. As stated above, the carrier reurges its position that the initial certification of 13% became final. Specifically, the carrier argues that the legislature did not intend to allow an injured worker unlimited time to dispute an initial IR certification and that allowing an IR dispute beyond the date of statutory MMI, as in this case, necessarily mitigates against the finality of statutory MMI. The carrier now cites, in support of its position, Lumbermens Mut. Cas. Co. v. Manasco, 971 S.W.2d 60 (Tex. 1998); Texas Workers' Compensation Commission v. Garcia, 893 S.W.2d 504 (Tex. 1995); Rodriguez v. Service Lloyds Insurance Company, 997 S.W.2d 248 (Tex. 1999); and various provisions of the 1989 Act. The cited authority does not expressly address whether the time for disputing an initial IR certification may be limited in the manner proposed here. Additionally, as stated in Appeal No. 022835, Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE Section 130.5(e) (Rule 130.5(e)) (90-day Rule) was invalidated by Fulton v. Associated Indemnity Corporation, 46 S.W.3d 364 (Tex. App.-Austin 2001, pet. denied), and the Commission has not since adopted a new rule limiting the time for disputing an initial IR certification. In the absence of express authority, we decline to limit the claimant's time for disputing the initial IR certification in this case.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **STATE FARM FIRE AND CASUALTY COMPANY** and the name and address of its registered agent for service of process is

MR. RON DODD
8900 AMBERGLEN BOULEVARD
AUSTIN, TEXAS 78729-1110.

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Edward Vilano
Appeals Judge

CONCUR:

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Chris Cowan
Appeals Judge

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Gary L. Kilgore
Appeals Judge