APPEAL NO. 031119
FILED JULY 9, 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 (CCH) was held on May 15, 2003. The hearing officer decided that an earlier certification of maximum medical improvement (MMI) and impairment rating (IR) had become final and a designated doctor should not be appointed. The appellant (claimant herein) files a request for review arguing that the hearing officer erred in perceiving that the issue at the CCH had been previously litigated. The claimant argues that while the issue of IR may have been previously litigated, the issue of entitlement to a designated doctor had not been. The respondent (carrier herein) replies that the claimant's request for review is inadequate to invoke the jurisdiction of the Appeals Panel and that the issue of entitlement to a designated doctor had been resolved earlier when the issues of MMI and IR had been finally determined by a previous decision of the Appeals Panel, which has itself become final because the claimant never sought judicial review of that decision.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The facts of this case are not in dispute. The parties stipulated that the claimant sustained a compensable injury on _____. The claimant's treating doctor certified on a Report of Medical Evaluation (TWCC-69) dated January 12, 1998, that the claimant attained MMI on November 24, 1997, with a zero percent IR. While the treating doctor later attempted to retract this certification, a hearing officer held that the certification had become final pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)), which was then in effect.[1] The claimant appealed the hearing officer's decision to the Appeals Panel and the Appeals Panel affirmed the decision of the hearing officer in Texas Workers' Compensation Commission Appeal No. 001381, decided August 9, 2000. There was no request for judicial review of the Appeals Panel decision in Appeal No. 001381.

We find no merit to the argument of the carrier that the claimant's request for review is inadequate to invoke our jurisdiction. The carrier argues that the claimant's request for review is short and does not set forth a basis for appeal. We stated as follows in Texas Workers' Compensation Commission Appeal No. 93824, decided October 27, 1993:

> We have noted in applying Section 410.202(c) and Rule 143.3(a)(2) that the validity of pleadings in administrative proceedings are not determined

[1] This rule was later declared invalid in Fulton v. Associated Indemnity Corporation, 46 S.W.3d 364 (Tex. App.-Austin 2001, pet. denied).

by the "technical niceties" of civil trial and appellate practice. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992. No particular form of appeal is required and an appeal, though terse and inartfully worded, will be accepted. Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993.

While the claimant's appeal is sufficient to invoke our jurisdiction, we find that it does not provide a basis for reversing the decision of the hearing officer. The hearing officer has simply found here that absent a request for judicial review of the decision in Appeal No. 001381, *supra*, that decision of the Appeals Panel has become final and is controlling in the present case. The claimant now argues that the finality of Appeal No. 001381 is irrelevant, because in the present case the claimant is not seeking to relitigate the issue of MMI and IR, but is instead attempting to litigate the issue of entitlement to a designated doctor. However, since the only purpose for which the appointment of a designated doctor is being sought is to obtain the opinion of a designated doctor on the issues of MMI and IR, we find that our opinion in Appeal No. 001381 is quite relevant to the present case. With the issues of MMI and IR final by operation of the claimant's failure to seek judicial review of our final decision in Appeal No. 001381, there is no need for the appointment of a designated doctor, and the hearing officer did not err by finding that a designated should not be appointed.

The decision and order of the hearing officer are affirmed.

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

HOWARD O. DUGGER
2505 NORTH PLANO ROAD, SUITE 200
RICHARDSON, TEXAS 75082.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Michael B. McShane
Appeals Panel
Manager/Judge

_____
Edward Vilano
Appeals Judge