

APPEAL NO. 110903  
FILED AUGUST 22, 2011

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 June 6, 2011. The hearing officer resolved the disputed issue by deciding that (Dr. V) was not appointed as the designated doctor in accordance with Section 408.0041 and 28 TEX. ADMIN. CODE § 127.5 (Rule 127.5).

The appellant (claimant) appealed, disputing the hearing officer's determination that Dr. V was not appointed as the designated doctor in accordance with Section 408.0041 and Rule 127.5. The claimant alleges that the first certification of maximum medical improvement (MMI) and assigned impairment rating (IR) did not become final pursuant to Section 408.123 and Rule 130.12. The respondent (carrier) responded, urging affirmance.

DECISION

Reversed and remanded.

The decision and order lists only one disputed issue: Was Dr. V appointed as the designated doctor in accordance with Section 408.0041 and Rule 127.5? The carrier argued at the CCH that Dr. V should not have been appointed as the designated doctor because the first certification of MMI and assigned IR had already become final. The focus of the CCH was whether or not the first certification became final pursuant to Section 408.123 and Rule 130.12. The hearing officer in the Background Information portion of the decision discusses the finality issue but did not add that issue to the disputed issues to be decided. The hearing officer did not make findings of fact, conclusions of law, or a decision specifically on whether the first certification of MMI and assigned IR became final pursuant to Section 408.123 and Rule 130.12, although that issue was actually litigated by the parties at the CCH.

The hearing officer found that (Dr. R) was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) as the designated doctor in accordance with Section 408.0041 and Rule 127.5. However, both the Report of Medical Evaluation (DWC-69) and the Texas Workers' Compensation Work Status Report (DWC-73) in evidence from Dr. R identifies him as the claimant's treating doctor.

The hearing officer based her determination on the disputed issue of whether Dr. V was appointed as the designated doctor in accordance with Section 408.0041 and Rule 127.5 on the finality issue. However, the hearing officer failed to add the issue of whether or not the first certification became final pursuant to Section 408.123 and Rule 130.12 although it was litigated by the parties and she failed to make findings of fact, conclusions of law, or a decision on the finality issue. Therefore, the hearing officer's determination that Dr. V was not appointed as the designated doctor in accordance with

Section 408.0041 and Rule 127.5 is reversed and that issue is remanded to the hearing officer.

On remand the hearing officer is to add the issue of whether the first certification of MMI and assigned IR became final pursuant to Section 408.123 and Rule 130.12. The hearing officer should then make findings of fact, conclusions of law, and a decision regarding the finality issue. The hearing officer should then make findings of fact, conclusions of law, and a decision on the issue of whether Dr. V was appointed as the designated doctor in accordance with Section 408.0041 and Rule 127.5.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Appeals Panel Decision 060721, decided June 12, 2006.

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

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Cynthia A. Brown  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge