

APPEAL NO. 990014

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 9, 1998. She (hearing officer) determined that the respondent (claimant) was entitled to sixth and seventh quarter supplemental income benefits (SIBS) and that the appellant (carrier) was relieved of liability for sixth quarter SIBS for the period of June 3, 1998, the date the sixth quarter began, through July 1, 1998, because the claimant failed to timely file his Statement of Employment Status (TWCC-52) with the carrier. The carrier appealed the award of seventh quarter SIBS and the determination that it was relieved of sixth quarter SIBS only through July 1, 1998, contending that this latter determination was in the nature of a clerical error and that the correct date should be through July 22, 1998.

On January 14, 1999, a document styled **CLAIMANT AND CARRIER'S JOINT MOTION FOR MODIFICATION OF THE CONTESTED CASE HEARING DECISION AND ORDER AND CARRIER'S WITHDRAWAL OF ITS APPEAL CONCERNING CLAIMANT'S ENTITLEMENT TO SEVENTH QUARTER OF SIBs** was filed. This document was signed by the attorneys for both parties. Attached to it was a Benefit Dispute Agreement, also signed by the attorneys, which stated that the parties agreed that the carrier is relieved of sixth quarter SIBS liability from June 3, 1998, through July 22, 1998, the period the TWCC-52 remained unfiled and that the claimant is entitled to seventh quarter SIBS.

DECISION

Affirmed, as reformed.

We construe the **JOINT MOTION** to constitute the claimant's response to the carrier's appeal. In this document, both parties agree that the hearing officer "made a typographical error" in relieving the carrier of a portion of liability for sixth quarter SIBS only through July 1, 1998, and that the correct date should be July 22, 1998. For this reason, we reform and affirm as reformed the decision and order of the hearing officer to reflect that the carrier is relieved of liability for sixth quarter SIBS from June 3, 1998, through July 22, 1998.

The carrier having withdrawn its appeal of the award of seventh quarter SIBS, the decision and order of the hearing officer is in all other respects affirmed.

Alan C. Ernst
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge