

APPEAL NO. 001125

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 February 2, 2000. Following that hearing, the hearing officer entered a decision in which he determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 15th, 16th, and 17th quarters. In Texas Workers' Compensation Commission Appeal No. 000509, decided April 24, 2000, we reversed that decision based upon our determination that the hearing officer had misapplied Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(3) (Rule 130.102(d)(3)) and remanded the case for the hearing officer to resolve the factual question of whether another record shows that the claimant had an ability to work in the relevant qualifying periods. What purports to be the hearing officer's decision and order on remand was distributed to the parties on May 4, 2000, under a cover letter of the same date. However, a review of that document reveals that it is the identical decision that was the basis of our remand. In his appeal, the claimant asserts error in the hearing officer's determinations and asks that we render a new decision that he is entitled to SIBs for the 15th, 16th, and 17th quarters. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

We reverse and render a new decision that the issues of the claimant's entitlement to SIBs for the 15th, 16th, and 17th quarters have not been properly determined on remand. The dispute resolution process to resolve these issues must begin again.

It appears that through some error the hearing officer's decision dated February 16, 2000, which was reversed and remanded in Appeal No. 000509, was again sent to the parties with a cover letter dated May 4, 2000. That decision does not make the factual determinations which necessitated the remand and it cannot properly be characterized as a decision on remand. Therefore, there is no decision following remand for us to review. The question remains as to an appropriate remedy in these circumstances. Pursuant to Section 410.203(c), we may not remand a case more than once. With no further remands authorized, the only proper remedy in this case is to render a decision that the issues of the claimant's entitlement to SIBs for the 15th, 16th, and 17th quarters have not been resolved. Texas Workers' Compensation Commission Appeal No. 93902, decided November 19, 1993; Texas Workers' Compensation Commission Appeal No. 93323, decided June 9, 1993.

The decision of the hearing officer that the claimant is not entitled to SIBs for the 15th, 16th, and 17th quarters is reversed and a new decision rendered that a proper and sufficient resolution of those issues has not been made. The parties are free to reinitiate the dispute resolution process to resolve these outstanding issues.

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Judy L. Stephens
Appeals Judge