

APPEAL NO. 011114
FILED JULY 05, 2001

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 April 25, 2001. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 12th compensable quarter. Appellant (carrier) appealed on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We reverse and remand.

The hearing officer erred by stating, as a finding of fact, that the "medical evidence" read as a whole constitutes a sufficient narrative under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) that as the rule states "specifically explains how the injury causes a total inability to work." The rule clearly is intended to preclude the situation that existed prior to its promulgation. Therefore, we will remand for further findings of fact as to what document constitutes "a narrative" required to obviate the legislatively imposed job search to qualify for SIBs. We caution that the identified narrative should be reasonably proximate to the period under consideration and should not consist of merely a different interpretation given to records that have been previously rejected by Texas Workers' Compensation Commission (Commission) hearing officers.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitates 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 Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

DISSENTING OPINION:

I respectfully dissent. I would affirm because I find the reports of Dr. N to constitute an adequate narrative and the evidence to be minimally sufficient to support the hearing officer's determination.

Judy L. S. Barnes
Appeals Judge