

APPEAL NO. 011176  
FILED JULY 09, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on May 7, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third and fourth quarters. The claimant has appealed on sufficiency of the evidence grounds. The respondent (carrier) urges in response that the evidence is sufficient to support the challenged determinations.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the third and fourth quarters. The requirements for entitlement to SIBs are provided for in Sections 408.142 and 408.143. *And see* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The claimant contends that she had "no ability" to work during the qualifying periods (May 27 through November 24, 2000) for the quarters at issue. She contended that various reports of various doctors, particularly Dr. B and Dr. S, satisfy the requirement of Rule 130.102(d)(4) for a narrative report from a doctor which specifically explains how the injury causes a total inability to work and that there is no other record which shows that she is able to return to work. The hearing officer found that the reports of Dr. B, the claimant's treating doctor, and of Dr. S, do not establish or explain a total inability to work during the qualifying periods and that the report of Dr. G, based on his examination of August 2000, indicates that with suitable retraining the claimant could work, albeit in a very restricted capacity. Dr. G wrote on August 29, 2000, that in his opinion the claimant will not return to any type of gainful employment other than sedentary-type work, that she may be a candidate for vocational reeducation from the Texas Rehabilitation Commission, and that she will remain off work until she has undergone some type of reeducation. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). We are satisfied that the challenged determinations of the hearing officer are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge