

APPEAL NO. 011651
FILED AUGUST 23, 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 June 26, 2001. Regarding the sole issue before him, the hearing officer determined that the respondent (claimant) was entitled to receive supplemental income benefits (SIBs) for the sixth quarter. The appellant (carrier) appeals and seeks reversal on sufficiency grounds, arguing that there were medical reports in the record showing the claimant's ability to work. The claimant responds, urging affirmance of the decision and order.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to SIBs for the sixth quarter. The hearing officer determined that the claimant satisfied the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) by providing a narrative that specifically explains how the injury causes a total inability to work and no other record shows an ability to work. The issues of whether there is a narrative and whether another record shows some ability to work are factual determinations for the hearing officer.¹ The hearing officer determined that the May 30, 2001, report from the claimant's treating doctor satisfied the narrative requirement of Rule 130.102(d)(4). He also determined that the January 26, 2001, functional capacity evaluation (FCE) did not constitute an "other record" because it failed to expressly address the unusually extensive nature of the claimant's back injury in this case. The hearing officer articulated a reasonable basis for discounting the results of the FCE and he was acting within his role as the fact finder in so assessing the weight and credibility to be given to that evidence. The hearing officer's determination that the claimant satisfied the requirements of Rule 130.102(d)(4) is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust; thus, no sound basis exists for reversing that determination, or the determination that the claimant is entitled to SIBs for the sixth quarter, on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

¹We have emphasized that a finding of no ability to work is a factual determination of the hearing officer which is subject to reversal on appeal only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Texas Workers' Compensation Commission Appeal No. 951204, decided September 6, 1995.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELER'S INDEMNITY COMPANY** and the name and address of its registered agent for service of process is:

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge