

APPEAL NO. 011816
FILED SEPTEMBER 18, 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 July 11, 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 10th quarter. The appellant (carrier) appeals and seeks reversal on sufficiency grounds, arguing that there was not a narrative that sufficiently explained how the injury caused a total inability to work and that other records show an 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 10th 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 that 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. The hearing officer determined that the May 3, 2001, report from the claimant's treating doctor satisfied the narrative requirement of Rule 130.102(d)(4). In addition, he noted that the other records from the treating doctor supplement that report and provide additional support for the opinion that the claimant has no ability to work as a result of the compensable injury. The hearing officer also determined that the functional capacity evaluation and the reports of the carrier's required medical examination (RME) doctor did not constitute "other records" because they failed to expressly address the unusually extensive nature of the claimant's back injury in this case. In addition, the hearing officer noted that there was some inconsistency in the RME doctor's report and that the exact nature of his opinion was not entirely clear. The hearing officer's observations in that regard are borne out by a review of those reports. The hearing officer articulated a reasonable basis for discounting the results of the purported other records as not showing or establishing that the claimant had an ability to work in the qualifying period. The hearing officer 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 10th 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ARGONAUT SOUTHWEST INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**JOSEPH A. YANKOVICH
1431 GREENWAY DRIVE, SUITE 450
IRVING, TEXAS 75038.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge