

APPEAL NO. 011994
FILED SEPTEMBER 28, 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 31, 2001. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) is not entitled to lifetime income benefits (LIBs) as of the date of the hearing. The claimant appeals and seeks reversal on sufficiency grounds. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was not entitled to LIBs, as of the date of the hearing. _____, the claimant suffered a compensable closed-head injury. The claimant was assigned an impairment rating of 40% in 1995 and was paid all of his impairment income benefits and supplemental income benefits, the entitlement to which ended March 6, 2001. The statutory provision guiding the determination of eligibility for LIBs is Section 408.161. The relevant provision in effect at the time of the claimant's injury, Section 408.161(a)(6), provided that LIBs are payable for "an injury to the skull resulting in incurable insanity or imbecility."

The claimant and his treating doctor testified at the hearing that the claimant suffers from brain damage, causing the development of dementia and the loss of memory and cognition. Further, the treating doctor testified that the claimant's condition will only continue to deteriorate with time. The evidence supports the hearing officer's finding that the claimant will never be able to work again in any capacity. The doctor described the term imbecility as outdated, not in general use in psychology since the 1950s, but explained that it could be defined as that state of an individual's having an intelligence quotient (IQ) of less than 30-35. He further testified that the claimant did not meet the definition of imbecile and that the claimant also was not insane. Thus, while the evidence of claimant's deteriorating condition was compelling, the hearing officer did not err in determining that the claimant was not entitled to LIBs because he did not currently satisfy the requirements of Section 408.161(a)(6).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE I
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge