APPEAL NO. 012070
FILED OCTOBER 17, 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 August 8, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the 8th quarter; that the claimant is entitled to SIBs for the 9th, 10th, 11th, 12th, 13th, and 14th quarters; and that the appellant (carrier) is relieved from liability for SIBs for the 8th, 9th, 10th, and 11th quarters of SIBs because of the claimant's failure to timely file an application for those quarters. The carrier appealed the hearing officer's determination that the claimant is eligible for SIBs for the 10th, 11th, 12th, 13th, and 14th quarters, asserting that the hearing officer gave improper weight to the medical evidence submitted by the claimant. There is no response from the claimant.

DECISION

Affirmed.

It is undisputed that the claimant found part-time employment during the qualifying period for the 10th quarter of SIBs, and that she had continued to work part time through the date of the hearing. The carrier asserts that this part-time employment does not satisfy the good faith job search requirement of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)). Rule 130.102(d)(1) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has returned to work in a position which is relatively equal to the injured employee's ability to work.

There was conflicting evidence as to the extent of the claimant's ability to work. The carrier offered evidence which would indicate that the claimant is able to work eight hours a day. The claimant offered evidence which indicates that she is incapable of working eight hours a day. The carrier asserts that in determining that the claimant had returned to work in a position which is relatively equal to her ability to work, the hearing officer gave improper weight to the claimant's evidence. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth

1947, no writ). The hearing officer specifically stated that she believed the treating doctor, but did not find contrary medical opinion persuasive. Upon review of the record submitted, we find no reversible error and we will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **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 1
AUSTIN, TEXAS 78701.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge