

APPEAL NO. 012241
FILED NOVEMBER 1, 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 30, 2001. The hearing officer determined that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the fourth quarter. The appellant (carrier) has appealed this determination on sufficiency of the evidence grounds. The claimant responded, urging that the hearing officer's determination be affirmed. The hearing officer's determination that the claimant's underemployment is a direct result of her injury has not been appealed and has become final.

DECISION

Affirmed.

The hearing officer made findings of fact which indicate that the hearing officer believed that the claimant was released to return to work light duty for three days a week for four to six hours a day during the qualifying period, that she could not work a full-time job, and that she returned to work in a position which is relatively equal to her ability to work. See Texas Workers' Compensation Commission Appeal No. 992668, decided January 13, 2000, and Texas Workers' Compensation Commission Appeal No. 001062, decided June 29, 2000, concerning Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)), return to work in a position which is relatively equal to the injured employee's ability to work, and part-time work.

The evidence supports the hearing officer's factual determination. 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 to the evidence. Section 410.165(a). Entitlement to SIBs is a question for the fact finder. It is for the hearing officer 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). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them to be so in this case. 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 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. YURKOVICH
1431 GREENWAY DRIVE, SUITE 450
IRVING, TEXAS 75038.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge