

APPEAL NO. 012326  
FILED NOVEMBER 5, 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 (CCH) was held on September 5, 2001. The hearing officer determined that the appellant (carrier) had waived the right to dispute the proper impairment rating (IR) and that the respondent (claimant) was not entitled to the fourth quarter of supplemental income benefits (SIBs).

The carrier has appealed, asserting that notwithstanding Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §130.102(g) (Rule 130.102(g), the Texas Workers' Compensation Commission (Commission) always retains the ability to correct a typographical error in an IR report. The carrier argues that the Commission should not give a "narrow" reading to Rule 130.102(g). The claimant responds that the hearing officer correctly applied this rule and consequently the claimant's IR is 21% for purposes of entitlement to SIBs. The claimant did not appeal the hearing officer's determination that she was not entitled to SIBs for the fourth quarter of eligibility. The claimant argued that the appeal was untimely. The carrier's appeal was filed timely because as of June 17, 2001, Saturday, Sunday and holidays under Section 662.003, Government Code are not included in the time for filing an appeal § 410.202(d).

DECISION

We affirm the hearing officer's decision.

In this case, the claimant was paid 63 weeks of impairment income benefits (IIBs) by the carrier based upon a Report of Medical Evaluation (TWCC-69) from the designated doctor that certified a 21% IR. The carrier also paid the first two quarters of SIBs (and not for the third quarter because the claimant earned over 80% of her preinjury average weekly wage). The claimant also said that the carrier paid her for her fifth quarter of SIBs. In the CCH and its appeal, the carrier asserted that it was only just before the fourth quarter of SIBs that it was "discovered" that the designated doctor made a typographical error in his 21% IR and that his narrative report "actually" awarded a 12% IR. The evidence showed that the narrative report and the TWCC-69 were received by the adjuster on July 14, 1999. No evidence was offered to show if the claimant was provided or ever received a copy of the narrative report. On December 28, 1999, the Commission wrote to the claimant and advised her that as she had an IR of 21%, she "may be entitled" to SIBs.

The unambiguous language of Rule 130.102(g) states:

- (G) Maximum Medical Improvement and Impairment Rating Disputes. If there is no pending dispute regarding the date of maximum medical improvement or the impairment rating prior to the expiration of the first quarter, the date of maximum medical improvement and the impairment rating shall be final and binding.

The rule provides no exceptions for meritorious reasons to adjust the IR, let alone mistakes resulting from want of diligence of either party in detecting and raising disputes to the IR in a timely fashion. The hearing officer did not err in determining that the 21% IR became final and binding under Rule 130.102(g); consequently, the claimant met the 15% threshold for entitlement to SIBs.

The true corporate name of the insurance carrier is **RELIANCE NATIONAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**TIMOTHY J. McGUIRE  
633 NORTH STATE HIGHWAY 161, SUITE 200  
IRVING, TEXAS 75038.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Philip F. O'Neill  
Appeals Judge