

APPEAL NO. 012389  
FILED NOVEMBER 14, 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 September 17, 2001. The hearing officer resolved the disputed issue before him by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the ninth quarter because she failed to supply a narrative report from a doctor as required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). The claimant has appealed, asserting that she submitted medical records which should constitute a narrative report, and that if she did not, it was the fault of the respondent (carrier). The carrier responded, urging affirmance. The claimant attached to her appeal a number of exhibits not offered at the hearing, none of which warrant our remanding the case for their consideration. She also filed another document attaching a new medical report. This document was not timely filed and will not be considered.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury in the form of bilateral ulnar neuropathy in her elbows, and bilateral ulnar and median neuropathy and bilateral flexor tenosynovitis in her wrists on \_\_\_\_\_. She has subsequently undergone three operations for her compensable injuries, the latest on December 15, 2000. The qualifying period for the claimant's ninth quarter of SIBs was from March 3, 2001, through June 15, 2001. It is undisputed that the claimant neither worked nor looked for work during this time period. The claimant asserted that she had a total inability to work during this time period and that her treating doctor specifically told her she could not work.

The sole issue on appeal is whether the claimant complied with Rule 130.102(d)(4), which 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 been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work." The claimant was last examined by her former treating doctor, Dr. K, on April 16, 2001. Dr. K's notes after the April 16, 2001, examination are consistent with his prior records and state that the claimant is restricted to "[O]ne-handed sedentary duty only and this represents permanent restrictions. Re-evaluate on a p.r.n. basis." In a letter dated July 12, 2001, almost three months after his last examination of the claimant, Dr. K stated that he believed the claimant could not use her left or right hand due to the severity of her condition, and that the "Claimant is considered totally disabled and was never released from my care." Dr. K goes on to state that the claimant is unable to work. The claimant also introduced a July 17, 2001, letter from Dr. D stating that the claimant is "to continue with Dr. K's imposed work restrictions."

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer determined that the claimant did not provide a narrative report from a doctor which specifically explained how her injury caused a total inability to work during the qualifying period. That determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Finally, the claimant argues that she was unable to provide a narrative report from her treating doctor due to the carrier's failure to pay certain past medical bills and that due to this failure on the part of the carrier Dr. K refused to issue a narrative without being paid in advance. We note that the claimant did not raise this assertion until after the carrier's closing argument. Further, the claimant was able to obtain the July 12, 2001, letter from Dr. K which she introduced into evidence.

The hearing officer's decision and order are affirmed.

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

**PARKER W. RUSH  
1445 ROSS AVENUE, SUITE 4200  
DALLAS, TEXAS 75202-2812.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge