

APPEAL NO. 012537  
FILED DECEMBER 4, 2001

This appeal after remand 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 May 24, 2001. The hearing officer determined that appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 11th quarter. Claimant appealed this determination on sufficiency grounds. Claimant also contends that respondent (carrier) failed to compare the 11th quarter with the prior quarter, pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.108(a) (Rule 130.108(a)). Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order. The Appeals Panel reversed the decision and remanded for the hearing officer to discuss whether there was any other narrative other than the one from Dr. P that the hearing officer expressly discussed. Texas Workers' Compensation Commission Appeal No. 011456, decided August 9, 2001; see Rule 130.102(d)(4). In her discussion in the original decision, the hearing officer had indicated that she did not consider any other narrative. In a decision and order after remand, the hearing officer again found that claimant is not entitled to SIBs and that claimant failed to prove that she had no ability to work. Claimant appealed on the same grounds. Carrier responded that the Appeals Panel should affirm the decision and order.

DECISION

We affirm.

Claimant contends that the hearing officer erred in determining that she is not entitled to SIBs. Claimant asserts that she should not have been required to offer an adequate narrative proving she had no ability to work because carrier had accepted Dr. P's narrative in the past. However, claimant had the burden of proof in this case and was required to meet that burden with credible evidence. Claimant contends that carrier did not make a comparison between this and prior quarters. See Rule 130.108(a). However, there is nothing in the record to indicate that carrier did not compare prior quarters or that carrier pursued a dispute without a factual or legal basis. *Id.* Claimant asserts that the hearing officer misread the medical records regarding whether claimant can drive. The hearing officer indicated that she found a discrepancy in the medical records of Dr. W, which caused her to doubt the credibility of Dr. W's May 8, 2001, narrative report. The May 8, 2001, office note from Dr. W states that claimant's eye condition makes it difficult for her to see when she is driving; while his May 8, 2001, narrative states that claimant must be driven to appointments. The hearing officer could consider the inconsistencies in these reports in determining credibility. We have reviewed the complained-of determinations regarding SIBs and claimant's ability to work, and we conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

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.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Michael B. McShane  
Appeals Judge