

APPEAL NO. 020152
FILED FEBRUARY 28, 2002

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 December 11, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters. The claimant appealed, contending that she presented sufficient medical proof to show that she is unable to work and arguing that the hearing officer completely and prejudicially disregarded the evidence presented. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to 9th and 10th quarter SIBs. The claimant asserted at the hearing that she had no ability to work during the qualifying period for the 9th and 10th quarters. In her statement of the evidence, the hearing officer noted that medical records dated within the relevant qualifying periods indicated that the claimant had some ability to work. The issue of whether the claimant satisfied the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) presented a question of fact for the hearing officer to resolve. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence, including the medical evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record reveals that the hearing officer's determination that the claimant did not sustain her burden of proving her entitlement to SIBs for the 9th and 10th quarters under Rule 130.102(d)(4) is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no basis exists for us to reverse the hearing officer's decision on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant argues that the hearing officer completely and prejudicially disregarded the evidence presented. Our review of the record does not reveal any bias or prejudice against the claimant. A hearing officer's weighing of the evidence so as to rule in favor of one party and against another is not, in and of itself, evidence of bias or prejudice. Texas Workers' Compensation Commission Appeal No. 941105, decided September 29, 1994. The hearing officer discussed the medical records at issue in this case and, further, specifically stated that all of the evidence presented, even though not discussed, was considered. We do not perceive error on the part of the hearing officer, and we reject the claimant's argument.

The balance of the claimant's appeal is a challenge to the validity of Rule 130.102(d)(4). As an administrative-appellate body, we are without the authority to

address such an argument.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLEY, EXECUTIVE DIRECTOR
TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge