

APPEAL NO. 020264  
FILED MARCH 14, 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 January 11, 2002. The hearing officer resolved the disputed issue before her by determining that use of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 128.5(d)(1) (Rule 128.5(d)(1)) in calculating the respondent's (claimant) average weekly wage (AWW) for impairment income benefits (IIBs) and supplemental income benefits (SIBs) is impractical, and that her fair, just, and reasonable AWW for determining IIBs and SIBs is \$180.21. The appellant (carrier) appealed and the claimant responded, urging affirmance.

DECISION

We affirm.

The hearing officer did not err in using Rule 128.5(d)(2) to calculate the claimant's AWW for purposes of determining IIBs and SIBs. 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 use of Rule 128.5(d)(1) in calculating the claimant's AWW for purposes of determining IIBs and SIBs was impractical, and that a fair, just, and reasonable calculation was necessary. Nothing in our review of the record indicates that the hearing officer's determination on this issue is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb 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).

The hearing officer's decision and order are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Michael B. McShane  
Appeals Judge