

APPEAL NO. 020290
FILED MARCH 7, 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 7, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits for the first and second quarters.

The claimant appeals, citing his surgeries and various medical reports, and contending that “[a]ll the medical, when read as a whole, meets the [criteria] of a narrative” that specifically explains how his injury causes a total inability to work. The respondent (carrier) responds, arguing that the claimant had not met his burden of providing a narrative report from a doctor that specifically explains how the injury causes a total inability to work.

DECISION

Affirmed.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. Although the hearing officer found that the claimant was unable to perform any type of work in any capacity and that no other records showed that the claimant was able to return to work, the hearing officer also found that the “Claimant did not provide a narrative report from a doctor that specifically explains how the injury causes a total inability to work,” obviously referring to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). In Texas Workers' Compensation Commission Appeal No. 010018, decided February 12, 2001, the Appeals Panel held:

It is clear that the Texas Workers' Compensation Commission intended that a determination of the total inability to work would no longer be supported by a fact finder cobbling together a work status from an assortment of records, but that there must be an express narrative, going beyond simply “off work” declarations, that describes how no work of any kind (not just the work done at the time of the injury) is possible because of the injury.

Similarly, Texas Workers' Compensation Commission Appeal No. 011114, decided July 5, 2001, remanded a case where the hearing officer had found a narrative from the medical evidence “read as a whole” stating “[t]he rule [Rule 130.102(d)(4)] clearly is intended to preclude the situation that existed prior to its promulgation.” The question whether any of the reports in this case constitutes a narrative report that specifically explains how the injury causes a total inability to work is largely a factual question for the hearing officer to resolve. The hearing officer clearly considered the various reports from the different doctors and 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).

The hearing officer's decision and order are affirmed.

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

**CT CORPORATION
350 N. ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge