

APPEAL NO. 020555
FILED APRIL 1, 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 (CCH) was held on February 21, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first and second quarters.

The claimant appeals, asserting inadequate "representation" by the ombudsman, that he disagrees with the decision, and that he is entitled to SIBs for the first and second quarters. Attached to the claimant's appeal are a number of documents, including prescriptions, Work Status Report (TWCC-73) forms, and medical reports, all dated well prior to the CCH. The respondent (carrier) responds that the hearing officer's decision was based on "an agreement of the parties" and that "agreement was placed into the record as stipulations."

DECISION

Affirmed.

No testimonial or documentary evidence (other than the hearing officer's exhibits) was placed into the record and the hearing officer announced several times that he would make his decision based on the stipulations. The hearing officer carefully explained the ombudsman's role in the proceeding and more than once asked the claimant if he was satisfied with the ombudsman's services to which the claimant replied, "Yes, sir." The hearing officer also carefully questioned the claimant about whether he was on medication, if there was anything which kept him from understanding the proceedings, and if the claimant had been in any way coerced, induced, or threatened to enter into the stipulations to which the claimant replied to each question: "No, sir."

The key stipulations to which the claimant agreed were:

- K. Claimant is not entitled to [SIBs] for the 1st quarter from July 19, 2001, through October 17, 2001.
- L. Claimant is not entitled to [SIBs] for the 2nd quarter from October 18, 2001, through January 16, 2002.

All of the documents that the claimant submitted with his appeal were submitted for the first time on appeal and it does not appear that any of the documents meet the criteria for newly discovered evidence. See Texas Workers' Compensation Commission Appeal No. 92400, decided September 18, 1992, and Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Accordingly, they will not be considered.

We conclude that the hearing officer's determinations are in accordance with the stipulations and 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 **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.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge