

APPEAL NO. 021053
FILED JUNE 6, 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 April 2, 2002. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the third quarter. The claimant claimed she had no ability to work during the qualifying period and it is undisputed that she did not work or look for work during the qualifying period. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer found that the claimant did not provide a narrative report from a doctor which specifically explained how the claimant's injury caused a total inability to work, and that during the qualifying period the claimant did not attempt in good faith to obtain employment commensurate with her ability to work. The hearing officer concluded that the claimant is not entitled to SIBs for the third quarter. In Texas Workers' Compensation Commission Appeal No. 001984, decided September 26, 2000, the Appeals Panel stated that "the 'narrative' required by Rule 130.102(d)(4) must include a detailed analysis of a claimant's ability to work at any job in relation to the physical restrictions and limitations from the compensable injury." The rule specifically requires a narrative report from a doctor that specifically explains how the injury causes a total inability to work. The hearing officer's finding that the claimant did not provide a narrative report from a doctor that specifically explained how the injury causes a total inability to work is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Having found that the claimant failed to provide a narrative report from a doctor which specifically explained how the injury caused a total inability to work, the hearing officer's finding that the claimant did not have an ability to work is untenable. The hearing officer was correct, however, in finding that the claimant failed to satisfy all the requirements of Rule 130.102(d)(4). See Texas Workers' Compensation Commission Appeal No. 010896, decided June 4, 2001.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **THE 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
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge