

APPEAL NO. 021946
FILED SEPTEMBER 3, 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 July 19, 2002. The hearing officer determined that the _____, compensable injury of appellant (claimant) did not extend to the low back; that claimant is not entitled to supplemental income benefits (SIBs) for the first through fifth quarters; and that respondent (carrier) is relieved of liability for SIBs for all of the second quarter and that part of the third quarter before November 9, 2001, because claimant failed to timely file his application for SIBs. Claimant appealed the determinations regarding extent of injury and entitlement to SIBs on sufficiency grounds. Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

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. 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). In affirming, we note that the claimant had the burden to prove that he had no ability to work. Texas Workers' Compensation Commission Appeal No. 950582, decided May 25, 1995. We also note that the fact that a claimant had surgery pending or underwent surgery does not automatically mean the hearing officer was required to find that the claimant had no ability to work at all during the entire qualifying period.

We affirm the hearing officer=s decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **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, COMMODORE 1
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge