

APPEAL NO. 021962
FILED SEPTEMBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on July 16, 2002, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third, fourth, and fifth quarters, and that his _____, compensable injury does not extend to include cauda equina syndrome. The claimant has appealed these determinations on evidentiary sufficiency grounds. The respondent (carrier) urges in response that the evidence is sufficient to support the challenge factual determinations.

DECISION

Affirmed.

The requirements for eligibility for SIBs are set out in Sections 408.142 and 408.143 of the 1989 Act and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §130.102 (Rule 130.102). The hearing officer did not err in finding that, during the three qualifying periods at issue (April 24, 2001, through January 18, 2002), the claimant had some ability to work and did not attempt in good faith to obtain employment commensurate with his ability to work, and in concluding that the claimant is not entitled to SIBs for the third, fourth, and fifth quarters. Further, the hearing officer did not err in finding that the claimant's compensable injury of _____, was not a producing cause of cauda equina syndrome and that the claimant does not have and has never had cauda equina syndrome.

There was some conflict in the medical evidence regarding the disputed issues before the hearing officer for resolution. However, the hearing officer could conclude, based on the reports of Dr. W and Dr. C, that the claimant had the ability to work at least light duty during the qualifying periods and that, based on the report of Dr. W, the claimant does not even have cauda equina syndrome. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel will not disturb the challenged factual determinations of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TX 75201.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge