

APPEAL NO. 022029
FILED SEPTEMBER 19, 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 April 22, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters. The appellant (carrier) appealed. In Texas Workers' Compensation Commission Appeal No. 021155, decided July 2, 2002, the Appeals Panel reversed the hearing officer's decision and remanded the case to the hearing officer. A CCH on remand was held on July 9, 2002, and the hearing officer again decided that the claimant is entitled to SIBs for the 9th and 10th quarters. The carrier appealed and the claimant 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 hearing officer's original decision was reversed and remanded because the hearing officer erred in giving presumptive weight to the work-status report of the designated doctor for the reasons stated in Appeal No. 021155. On remand, the hearing officer did not give presumptive weight to the report of the designated doctor regarding the claimant's work status. The hearing officer found on remand that during the qualifying periods for the 9th and 10th quarters, the claimant had a total inability to work, that he made a good faith effort to obtain employment commensurate with his ability to work, and that his unemployment was a direct result of his impairment from his compensable injury. The hearing officer determined that the claimant is entitled to SIBs for the 9th and 10th quarters. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer determined that there were narrative reports from doctors which specifically explained how the compensable injury caused a total inability to work. The hearing officer also provided a sufficient explanation of why she did not find that other reports showed an ability to work. We conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge