

APPEAL NO. 022331  
FILED NOVEMBER 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 August 20, 2002. With respect to the issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 10<sup>th</sup> quarter. In his appeal, the claimant argues that the hearing officer's determination that he did not satisfy the good faith requirement in the relevant qualifying period is against the great weight of the evidence. The claimant also argues that "those assisting" him "never allowed [him] to speak on [his] behalf." In addition, the claimant asks the Appeals Panel to permit him to "defend [his] case in Spanish." The appeal file does not contain a response to the claimant's appeal from the respondent (carrier).

DECISION

Affirmed.

We first address the claimant's argument that "those assisting" him "never allowed [him] to speak on [his] behalf." At the beginning of the hearing, the hearing officer asked the claimant, via the interpreter provided by the Texas Workers' Compensation Commission (Commission), if he had had satisfactory preparation time with the ombudsman who assisted him and the claimant responded that he did. In addition, after the claimant was cross-examined by the carrier's counsel, the hearing officer called a recess for the purpose of permitting the claimant time to confer with the ombudsman to make sure he had an opportunity to fully respond to the issues raised in the cross-examination. The hearing officer gave the claimant a full opportunity to present his case; thus, we find no merit in the assertion that the claimant was not provided an opportunity to speak on his own behalf.

With respect to the claimant's complaint that he was not allowed to defend himself in Spanish, we again find no error. The claimant testified in Spanish and his testimony was interpreted by a Commission-provided interpreter. In addition, the claimant filed his appeal in Spanish, which was also translated by a Commission-provided interpreter. Translation was required in order for the content of the testimony and appeal to be understood by the non-Spanish speaking employees of the Commission. We further note that the claimant did not object to the interpreter at the hearing and, accordingly, he did not preserve any error associated with the translation for purposes of appeal.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement in the qualifying period for the 10<sup>th</sup> quarter of SIBs by demonstrating that he had no ability to work during the 10<sup>th</sup> quarter qualifying period. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §

130.102(d)(4) (Rule 130.102(d)(4)); thus, he further determined that the claimant did not prove that he had no ability to work during the qualifying period for the 10<sup>th</sup> quarter. Nothing in our review of the record reveals that the challenged good faith determination is so against the great weight as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb that determination, or the determination that the claimant is not entitled to SIBs for the 10<sup>th</sup> quarter, on appeal. 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 **FAIRMONT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BOB KNOWLES  
5205 NORTH O'CONNER BOULEVARD  
IRVING, TEXAS 75039.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge