

APPEAL NO. 022422
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 21, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter. The claimant appeals the determination on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to fifth quarter SIBs. At issue is whether the claimant satisfied the good faith requirement of Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), regarding no ability to work. This was essentially a question of fact for the hearing officer to resolve. The hearing officer considered the evidence and determined that the claimant failed to provide a narrative report from a doctor which specifically explains how the compensable injury causes a total inability to work, and, therefore, was not entitled to fifth quarter SIBs. In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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).

The claimant's doctor submitted a letter to the Texas Workers' Compensation Commission, in conjunction with the claimant's appeal, which intends to explain how the compensable injury caused a total inability to work during the qualifying period. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Because it was not shown that the document could not have been obtained prior to the hearing below, it does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The decision and order of the hearing officer are affirmed.

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

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge