

APPEAL NO. 022819
FILED DECEMBER 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 was held on October 10, 2002. With respect to the single issue before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth quarter. In its appeal, the appellant (carrier) asserts error in the hearing officer's determinations that the claimant satisfied the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) and that the claimant is entitled to SIBs for the sixth quarter. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Reversed and rendered.

The parties stipulated that the claimant sustained a compensable injury; that he reached maximum medical improvement on January 4, 2000, with an impairment rating of 16%; that the claimant did not commute his impairment income benefits; that the sixth quarter ran from March 6 to June 4, 2002; that the qualifying period for the sixth quarter ran from November 22, 2001, to February 20, 2002; and that the claimant did not look for work in the qualifying period for the sixth quarter. The hearing officer determined that the claimant was entitled to SIBs for the sixth quarter because the claimant sustained his burden of proving that he had no ability to work in the qualifying period pursuant to Rule 130.102(d)(4).

The hearing officer determined that the report from Dr.F and the functional capacity evaluation (FCE) were not "other records" which show an ability to work. The hearing officer articulated a reasonable basis for discounting Dr. F's report and the FCE and he was acting within his role as the fact finder in so assessing the weight and credibility to be given to that evidence. Our review of the record does not reveal the hearing officer's determination concerning the "other record" requirement of Rule 130.102(d)(4) is so against the great weight of the evidence as to compel its reversal on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986).

The carrier also challenged the hearing officer's determination that the claimant satisfied the requirement of Rule 130.102(d)(4) of presenting a narrative report from a doctor that specifically explains how the compensable injury caused a total inability to work. The carrier's argument in this regard is well-taken. The claimant presented several reports from Dr. P, the claimant's treating doctor. However, those reports simply do not provide an explanation as to how the claimant's compensable injury caused him to be unable to work in any capacity. Accordingly, we believe that the hearing officer's determination that the claimant satisfied the narrative requirement of Rule 130.102(d)(4) is so against the great weight of the evidence as to be clearly wrong

or manifestly unjust. As such, we reverse that determination and the determination that the claimant is entitled to SIBs for the sixth quarter and render a new determination that the claimant is not entitled to those benefits.

The hearing officer's determination that the claimant is entitled to SIBs for the sixth quarter is reversed and a new decision rendered that the claimant is not entitled to sixth quarter SIBs.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Margaret L. Turner
Appeals Judge