

APPEAL NO. 030104  
FILED FEBRUARY 26, 2003

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 November 12, 2002. The hearing officer determined that appellant/cross-respondent (claimant) is entitled to supplemental income benefits (SIBs) for the second and fourth quarters, but that she is not entitled to SIBs for the third quarter. Claimant appealed the adverse determination regarding third quarter SIBs, contending that she had no ability to work during the weeks of the third quarter qualifying period that she did not look for work. The file does not contain a response from respondent/cross-appellant (carrier). Carrier appealed the determinations that claimant is entitled to second and fourth quarter SIBs. Claimant responded that the hearing officer did not err in his determinations in that regard.

DECISION

We affirm.

Claimant contends that the hearing officer erred in determining that she is not entitled to third quarter SIBs. Claimant asserts that she was not physically able to look for work during the weeks of the third quarter qualifying period when she did not look for work. Claimant contends that she was excused from searching for work during those weeks. The record reflects that claimant did not make a job search during various weeks of the third quarter qualifying period. For instance, claimant did not search for work between February 25 and March 3, 2002. The record reflects that Dr. K took claimant off work on March 29, 2002, and said she could not work for a few days periodically when she had a flare in her condition, but he did not indicate that she could not work for any period longer than 72 hours before March 29, 2002. Dr. W provided a narrative that explained why claimant could not work, but in his report, he indicated that claimant was able to work before March 29, 2002. Therefore, claimant did not provide a narrative report from a doctor that specifically explains how the injury caused a total inability to work from February 25 to March 3, 2002. For this reason, claimant had not met her burden regarding good faith and the hearing officer did not err in determining that she is not entitled to third quarter SIBs. See Texas Workers' Compensation Commission Appeal No. 002428, decided December 1, 2000.

Carrier contends the hearing officer erred in determining that claimant is entitled to second quarter SIBs. Carrier asserts that claimant is not entitled to SIBs because she failed to cooperate with carrier's vocational rehabilitation counselor. The extent to which claimant cooperated with this counselor is merely one factor for the hearing officer to consider in making his determinations regarding SIBs entitlement. We perceive no reversible error in this case.

Carrier contends the hearing officer erred in determining that claimant is entitled to fourth quarter SIBs. Carrier first asserts that claimant did not provide a narrative report from a doctor that specifically explains how the injury caused a total inability to work during the qualifying period of April 23 to July 23, 2002. However, the hearing officer could find from the evidence that the May 8, 2002, report of Dr. W is an adequate narrative. Dr. W considered claimant's pain and medications, and discussed whether she was capable of even taking a functional capacity test or even performing part-time, limited-duty work. Because of this, we conclude that this narrative is adequate to satisfy Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § Rule 130.102(d)(4) (Rule 130.102(d)(4)), and that the evidence is minimally sufficient to support the hearing officer's good faith determination.

Carrier next contends that the hearing officer improperly combined two reports in deciding whether there was an adequate narrative in this case. However, it appears that the hearing officer indicated that he found there were two narratives in this case and that each was adequate as a narrative. It appears that the hearing officer considered all of the medical reports regarding claimant's ability to work in deciding whether she proved that she "has been unable to perform any type of work in any capacity." This first prong of Rule 130.102(d)(4) is something the hearing officer had to consider in addition to whether he thought there was an adequate narrative in this case. See Texas Workers' Compensation Commission Appeal No. 012741, decided December 14, 2001. In reading the hearing officer's decision, we do not think he improperly combined two reports in deciding whether there was an adequate narrative. It appears that he did consider the two reports in determining the first prong, however. As long as the hearing officer found that there was one report from a doctor that specifically explains how the injury caused a total inability to work during the qualifying period, as the hearing officer appears to have done, we perceive no reversible error. Texas Workers' Compensation Commission Appeal No. 011152, decided July 16, 2001. We conclude that the hearing officer's determinations are supported by the record and are not 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).

We affirm the hearing officer's decision and order.

According to information provided by carrier, 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 SYSTEMS  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Terri Kay Oliver  
Appeals Judge

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Edward Vilano  
Appeals Judge