

APPEAL NO. 030358  
FILED MARCH 27, 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 January 21, 2003. The hearing officer determined that the appellant (carrier) did not waive its right to contest the respondent's (claimant) entitlement to supplemental income benefits (SIBs) for the sixth quarter because the carrier did timely request a benefit review conference as required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.108(d) (Rule 130.108(d)); that the carrier is not relieved of liability for SIBs because of the claimant's failure to timely file an Application for [SIBs] (TWCC-52) for the seventh quarter, because the claimant's failure to timely file the TWCC-52, if she so failed, is excused under Rule 130.105(a)(1) due to the carrier's failure to send the claimant a TWCC-52 for that quarter; that the claimant is entitled to SIBs for the sixth and eighth quarters; and that the claimant is not entitled to SIBs for the seventh quarter. The carrier appealed the hearing officer's determinations that it is not relieved of liability for SIBs for the seventh quarter due to the failure of the claimant to timely file a TWCC-52, and that the claimant is entitled to SIBs for the sixth and eighth quarters. The claimant responded, urging affirmance. The hearing officer's determinations that the carrier did not waive its right to contest the claimant's entitlement to SIBs for the sixth quarter and that the claimant is not entitled to SIBs for the seventh quarter are unappealed and have become final. Section 410.169.

DECISION

Affirmed.

On appeal, the carrier has essentially challenged the complained-of determinations on sufficiency of the evidence grounds. We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The disputed issues presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**BEN SCHROEDER  
ZURICH NORTH AMERICA  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Edward Vilano  
Appeals Judge