

APPEAL NO. 030486
FILED MARCH 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 January 27, 2003. 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 second quarter. In his appeal, the claimant initially contends that the hearing officer erred in denying his Motion for Continuance. In the alternative, the claimant argues that the hearing officer's determinations that he did not satisfy the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), and that he is not entitled to SIBs for the second quarter, are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that he reached maximum medical improvement on July 23, 2001, with an impairment rating of 19%; that he did not commute his impairment income benefits; and that the second quarter of SIBs ran from November 25, 2002, to February 23, 2003, with a corresponding qualifying period of August 13 to November 11, 2002. The hearing officer determined that the claimant is not entitled to SIBs for the second quarter.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement in the qualifying period for the second quarter of SIBs by demonstrating that he had no ability to work in that period. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of 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 second quarter. Nothing in our review of the record reveals that the challenged 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 the good faith determination, or the determination that the claimant is not entitled to SIBs for the second quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

As for the claimant's assertion that the hearing officer erred in denying his motion for a continuance, we note that no such motion was made or reurged at the hearing nor was any prehearing written motion offered into evidence or otherwise made a part of the record. Accordingly, the claimant did not preserve error relating to a denial of any such motion.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CASUALTY RECIPROCAL EXCHANGE** and the name and address of its registered agent for service of process is

**FRED S. STRADLEY
9330 LBJ FREEWAY, SUITE 1400
ABRAMS CENTER
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Roy L. Warren
Appeals Judge