

APPEAL NO. 030931
FILED JUNE 5, 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 April 3, 2003. With respect to the issue before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter. In its appeal, the appellant (carrier) argues that the hearing officer erred in determining 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 she is entitled to SIBs for the first quarter. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that she was assigned a 22% impairment rating for her compensable injury; that she did not elect to commute her impairment income benefits; and that the first quarter of SIBs ran from November 11, 2002, to February 9, 2003, with a corresponding qualifying period of July 30 to October 28, 2002. The hearing officer determined that the claimant had no ability to work in the qualifying period for the first quarter of SIBs and that the claimant presented a medical narrative from Dr. S that specifically explained how the claimant's injury caused an inability to work in any capacity. Thus, he further determined that the claimant had satisfied the requirements of Rule 130.102(d)(4) and that she is entitled to SIBs for the first quarter.

The hearing officer did not err in determining that the claimant satisfied the good faith requirement of Rule 130.102(d)(4) by demonstrating that she had no ability to work in the qualifying period for the first quarter of SIBs. The carrier argues that the October 30, 2002, letter from Dr. S demonstrated that the claimant had some ability to work because in that letter Dr. S states that the claimant, "could possibly perform light duty, office clerical kind of work, if such work was available within her limits of education and training." However, as the fact finder, the hearing officer was free to evaluate that letter in the context of the other evidence from Dr. S and to determine that Dr. S's opinion was that the claimant was unable to work and that his other reports provided the necessary explanation to constitute the required narrative. The hearing officer was persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Rule 130.102(d)(4) and to sustain her burden of proving entitlement to SIBs for the first quarter. Nothing in our review of the record reveals that the challenged determination is so against 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 disturb the good faith determination, or the determination that the claimant is entitled to SIBs for the first quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**ROBERT PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231- 4813.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge