

APPEAL NO. 031346
FILED JULY 16, 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 24, 2003. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first compensable quarter. Appellant (carrier) appealed the determinations regarding good faith and SIBs entitlement on sufficiency grounds. The file does not contain a response from claimant.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. Regarding direct result, the evidence that claimant sustained a serious injury with undisputed restrictions preventing her from performing her old job is evidence supporting the direct result determination. Regarding good faith, carrier contends that the hearing officer should have disregarded the November 1, 2002, report of Dr. S because it did not take into account the October 2002, functional capacity evaluation (FCE). In his October 2002, and November 1, 2002, reports Dr. S did not discuss the FCE. However, in a March 11, 2003, letter Dr. S discussed the FCE and still maintained that claimant had no ability to work. Regarding whether any other records show that claimant was able to return to work, the hearing officer could have chosen to discount the reports of Dr. N after considering the evidence regarding claimant's pain during activity, and whether Dr. N considered the effect of this on claimant's ability to work. The hearing officer could have chosen to discount the report of Dr. R based on its age, considering changes in claimant condition noted by Dr. S. 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 **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge