

APPEAL NO. 031766  
FILED AUGUST 25, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held regarding all three cases on May 5, 2003. In (Docket 1), the hearing officer determined that the respondent's (claimant) (date of injury for Docket No. 1), compensable injury includes a closed head injury, his cognitive disorder, and seizure disorder, and that the claimant is entitled to supplemental income benefits (SIBs) for the seventh quarter. In (Docket 2), the hearing officer determined that the claimant is entitled to SIBs for the 10th quarter. In (Docket 3), the hearing officer determined that the claimant is entitled to SIBs for the 11th, 12th, and 13th quarters. The appellant (carrier) has appealed all of the above determinations. The file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determination regarding extent of injury. That determination involved a question of fact for the hearing officer to resolve, and there was conflicting evidence presented on the issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the applicable law and evidence presented, we cannot conclude that the hearing officer's extent-of-injury determination is 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).

The hearing officer did not err in determining that the claimant is entitled to SIBs for the 7th, 10th, 11th, 12th, and 13th quarters. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) set out the requirements for SIBs under a "no ability to work" theory. The carrier contends that the claimant is not entitled to SIBs for the relevant quarters because he failed to establish that his unemployment was a direct result of his compensable injury and because other records show that the claimant had some ability to work during the relevant qualifying periods. The carrier's "direct result" argument is directly tied to its assertion that the claimant's compensable injury does not include a closed head injury, his cognitive disorder, and seizure disorder. As we have affirmed the hearing officer's extent of injury determination, we reject the carrier's direct result argument as being without merit.

The carrier next asserts that "other records" showed that the claimant had some ability to work during the relevant time periods. This presented a question of fact for the

hearing officer to resolve. 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). In view of the evidence presented and the applicable law, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Margaret L. Turner  
Appeals Judge