

APPEAL NO. 032209
FILED OCTOBER 9, 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 July 9, 2003. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 17th quarter, and that appellant (carrier) is not relieved of liability for SIBs. Carrier appealed the determinations regarding direct result, good faith, and SIBs entitlement on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Carrier contends that the designated doctor's report is not entitled to presumptive weight. Carrier complains that the designated doctor refused to consider only the compensable injury when determining whether an injured employee whose medical condition prevented the injured employee from returning to work in the prior year has improved sufficiently to allow the injured employee to return to work. However, the hearing officer could find from the evidence that the designated doctor determined that claimant has not improved sufficiently to allow her to return to work because of the progressive deterioration of the lumbar spine with lumbar myelopathy and conus medullaris syndrome. The hearing officer could determine that the great weight of the other medical evidence is not to the contrary.

Carrier contends that other records show that claimant is able to return to work. When the designated doctor is properly appointed under Section 408.151 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.110 (Rule 130.110) to consider the issue of whether the claimant's medical condition has improved sufficiently to allow the claimant to return to work, the procedures under Section 408.151 and Rule 130.110 control over the provisions of Rule 130.102 pertaining to entitlement to SIBs. Texas Workers' Compensation Commission Appeal No. 022604-s, decided November 25, 2002. Use of the designated doctor for return to work determinations gives presumptive weight to the designated doctor's opinion over other evidence normally used to decide the Rule 130.102(d)(4) issues of inability to work, narrative report, and "other records." Appeal No. 022604-s. The hearing officer did not err in applying the law to the facts in this case. We further conclude that the hearing officer's direct result determination is also sufficiently supported by evidence that claimant sustained a serious injury with lasting effects and that, during the filing period, she could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 93559, decided August 20, 1993; Texas Workers' Compensation Commission Appeal No. 960905, decided June 25, 1996.

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. 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 **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge