

APPEAL NO. 032389  
FILED OCTOBER 15, 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 August 14, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eighth and ninth quarters and that the respondent (carrier) did not waive the right to contest entitlement to SIBs for the eighth quarter by failing to timely request a benefit review conference (BRC). Although initially disputed, the parties agreed to withdraw the issue of whether the carrier was relieved from liability for eighth and ninth quarters SIBs because of the claimant's failure to timely file the corresponding applications. The claimant appeals the determination that the carrier did not waive the right to contest eighth and ninth quarters SIBs. The carrier urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The claimant argues on appeal that the hearing officer's waiver determination is erroneous as a matter of law, as she failed to properly apply Section 408.147. Section 408.147 provides that if a carrier fails to request a BRC within 10 days after receipt of the application, the carrier waives the right to contest entitlement to SIBs for that quarter. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE 130.108(d) (Rule 130.108(d)) limits the requirement to timely request a BRC to those instances where SIBs were paid in the prior quarter. See *also* Texas Workers' Compensation Commission Appeal No. 000581, decided May 1, 2000, and Texas Workers' Compensation Commission Appeal No. 991354, decided August 9, 1999. It is undisputed that the Texas Workers' Compensation Commission determined that the claimant was not entitled to SIBs for the seventh quarter, and that the carrier, therefore, did not pay benefits. Because the carrier had not paid seventh quarter SIBs at the time claimant filed his application for the eighth and ninth quarters SIBs, we cannot agree that the hearing officer erred in deciding that the carrier did not waive its right to contest the claimant's entitlement to SIBs for the eighth quarter. See Texas Workers' Compensation Commission Appeal Panel No. 021078, decided June 13, 2002. Although the claimant urges on appeal that the hearing officer additionally erred in determining that the carrier did not waive the right to contest entitlement for ninth quarter SIBs, that issue was not before the hearing officer and no such determination was made.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** 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.**

---

Chris Cowan  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Margaret L. Turner  
Appeals Judge