APPEAL NO. 032865
FILED DECEMBER 11, 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 October 7, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 10th quarter. The appellant (carrier) appealed the hearing officer's decision that the claimant is entitled to SIBs for the 10th quarter. The claimant responded, urging affirmance.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The parties stipulated that the claimant sustained a compensable injury on _____; that she received an impairment rating of 15%; that she did not commute her impairment income benefits; and that the 10th quarter of SIBs ran from June 14 to September 12, 2003, with a corresponding qualifying period of March 2 to May 31, 2003. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by showing that she had a total inability to work during the qualifying period for the 10th quarter. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

On appeal, the carrier asserts that the hearing officer erred in determining that the claimant provided a sufficient narrative report as required by Rule 130.102(d)(4), because the hearing officer combined the records of three different doctor's in reaching her determination that the claimant provided a sufficient narrative report which specifically explains how the injury causes a total inability to work. The carrier additionally asserts that there is an "other record" which shows that the claimant is able to return to work in some capacity.

We first address the carrier's assertion that the hearing officer incorrectly combined the records of three different doctors in reaching her determination that the claimant provided a sufficient narrative report. In the Statement of the Evidence portion of the hearing officer's decision and order, she writes that "[t]he totality of the medical records of [(Dr. H)], [(Dr. O)] and [(Dr. P)], specifically explained how the [c]laimant's injury caused a total inability to work." In Texas Workers' Compensation Commission Appeal No. 011152, decided July 16, 2001, the Appeals Panel held that Rule

130.102(d)(4) does not contemplate the combining of reports from more than one doctor to somehow fashion a combination narrative report. Consequently we have reviewed the reports of Dr. H, Dr. O, and Dr. P separately. While we caution hearing officer's not to combine the records from different doctor's in determining if there is a sufficient narrative as required by Rule 130.102(d)(4), our review of the records of the three different doctor's indicate that the hearing officer could determine that the records from any of the three doctors, viewed separately, constituted a narrative which satisfies Rule 130.102(d)(4). Although we note that the better practice for hearing officers is to make specific findings of fact regarding which doctor and which records constitute a sufficient narrative report, we find that the hearing officer's determination that the claimant provided a sufficient narrative is supported by the record.

The carrier next asserts that there is an "other record" which shows that the claimant has some ability to work. The record referred to by the carrier is a letter from Dr. O dated September 17, 2002. We agree with the hearing officer's determination that this letter does not constitute an "other record" showing that the claimant has some ability to work. In that letter, Dr. O wrote "I advised the [claimant] if the [Texas Workers' Compensation Commission] is going to take a position that she needs to look for jobs then she can go ahead and do it." The rest of the letter outlined why Dr. O believed that the claimant could not work at the time it was written. If anything, the letter in question is arguably a narrative report specifically explaining how the injury causes a total inability to work.

For the above reasons, we affirm the hearing officer's decision and order.

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.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Edward Vilano
Appeals Judge