

APPEAL NO. 040213  
FILED MARCH 15, 2004

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 January 13, 2004. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 12th and 13th quarters. Appellant (carrier) appealed the determinations related to good faith, direct result, 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 hearing officer erred in rejecting the designated doctor's report. Pursuant to Section 408.151 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.110 (Rule 130.110), the opinion of a designated doctor selected to determine if a claimant's condition has improved sufficiently to permit a return to work is entitled to presumptive weight unless the great weight of the other medical evidence is to the contrary. Texas Workers' Compensation Commission Appeal No. 011564, decided August 21, 2001. In this case, the designated doctor said that claimant was able to work medium duty during the qualifying periods in question.

The hearing officer rejected the designated doctor's report and determined that the great weight of the other medical evidence is contrary to the designated doctor's report. The hearing officer noted that the designated doctor found claimant could work medium duty even though the functional capacity evaluation (FCE) that the designated doctor considered said claimant could not work. There was conflicting evidence regarding the reason why claimant could not perform some of the FCE tasks. The hearing officer could also consider the fact that the designated doctor did not discuss the effects of claimant's medications on his ability to work. In determining whether the great weight of the other medical evidence is contrary to the designated doctor's report, the hearing officer could consider that Dr. K, who wrote a report for carrier, also failed to discuss the effects of claimant's medications, while this had been discussed by the treating doctor, Dr. E, who said claimant could not work. After considering the medical evidence and the above-discussed concerns with the reports of Dr. K, the hearing officer could determine from the evidence that the great weight of the other medical evidence is contrary to the report of the designated doctor. The hearing officer did not err in determining that the designated doctor's report is not entitled to presumptive weight.

The hearing officer could also determine that claimant has been unable to perform any type of work in any capacity and that he provided narrative reports from Dr. E that specifically explain how the injury caused a total inability to work. The hearing

officer explained why she discounted the designated doctor's report and the reports of Dr. K. Given that explanation and, and given the other evidence in the record, we conclude that the hearing officer could also determine that no other records showed that claimant was able to return to work during the qualifying periods. The evidence is minimally sufficient to support the hearing officer's determinations.

Regarding direct result, the hearing officer could find from the evidence that claimant sustained a serious injury with lasting effects and that he could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 960028, decided February 15, 1996. We conclude that the hearing officer's determinations are supported by the record and that her determinations 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 **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge