

APPEAL NO. 040675
FILED MAY 5, 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 February 6, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first quarter. The claimant appeals and argues that the hearing officer based his decision on personal bias, and that his decision is contrary to the evidence. The respondent (carrier) replies that the decision of the hearing officer should be affirmed.

DECISION

Affirmed.

The claimant has the burden of proving entitlement to SIBs for any quarter claimed. The eligibility requirements for SIBs are set out in Sections 408.142 and 408.143 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) and will not be repeated here. In the present case, the hearing officer found that the claimant failed to prove that she had a total inability to work in any capacity as required by Rule 130.102(d)(4) during the qualifying period in question. Whether a claimant satisfied the "total inability to work" requirement for SIBs entitlement is a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). As an appellate tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The evidence was conflicting, and applying the standard of review stated above, we find no legal basis to overturn the decision of the hearing officer.

The claimant's assertions of bias by the hearing officer are not supported by the record. The record does not reflect that the hearing officer misapplied the law or failed to consider the evidence. The fact that the hearing officer did not find the claimant's evidence to be credible does not mean that he did not consider all of the evidence. We perceive no error.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Reliance National Indemnity Company**, an **impaired carrier** and the name and address of its registered agent for service of process is

TIMOTHY J. McGUIRE
633 NORTH STATE HIGHWAY 161
IRVING, TEXAS 75038.

Daniel R. Barry
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge