

APPEAL NO. 070379
FILED MAY 21, 2007

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 22, 2007. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the 10th quarter, October 11, 2006, through January 9, 2007. The appellant (self-insured) appealed, contending that the claimant failed to provide a narrative report that specifically explained how the compensable injury caused a total inability to work. Additionally, the self-insured argued that there were two other records in evidence which showed that the claimant had an ability to work. The appeal file does not contain a response from the claimant.

DECISION

Reversed and rendered.

The parties stipulated that the claimant sustained a compensable low back injury on _____, with an 18% impairment rating; that the claimant did not commute any portion of the impairment income benefits; and that the qualifying period for the 10th quarter is June 29 through September 27, 2006. Section 408.142 as amended by the 79th Legislature, effective September 1, 2005, references the requirements of Section 408.1415 regarding work search compliance standards. Section 408.1415(a) states that the (Texas Department of Insurance, Division of Workers' Compensation (Division)) Commissioner by rule shall adopt compliance standards for SIBs recipients. In that no such rules have been implemented as of this date, we refer to the eligibility criteria for SIBs entitlement in 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). Commissioner's Bulletin No. B-0058-05 dated September 23, 2005, provides that until new SIBs rules are adopted, the Division's Rules 130.100-130.110 govern the eligibility and payment of SIBs and remain in effect until they are amended, repealed, or modified by the Commissioner of Workers' Compensation.

The claimant contended that she was entitled to SIBs for the 10th quarter based on a total inability to work. 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 report 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.

The hearing officer noted in his discussion of the evidence that "[Dr. M)] opined [c]laimant was unable to work during the qualifying period, and issued several work status reports that indicated [c]laimant has been unable to work since May 30, 2006. Dr. [M] opined [c]laimant was a candidate for a multidisciplinary pain management

program during the qualifying period.” There were several Work Status Reports (DWC-73) in evidence which reflected that Dr. M, a referral doctor, took the claimant off work during the qualifying period. There were additional medical reports from Dr. M in evidence which recommended a CT scan, noted the medication prescribed for claimant, recommended a multidisciplinary pain management program, and stated the claimant requires an off work status. However, a review of the exhibits in evidence reflects that there is no narrative report from a doctor that specifically explains how the claimant’s compensable injury caused a total inability to work during the relevant qualifying period. Dr. M’s correspondence does not explain how the compensable injury prevents the claimant from working in any capacity. Other than the restriction marked on the DWC-73 taking the claimant off work, Dr. M simply states that the claimant requires an off work status. General conclusory statements that a worker has no ability to work do not satisfy the requirement to explain how an injury causes the total inability to work. Appeals Panel Decision (APD) 010023, decided February 7, 2001. Because there is no narrative report from a doctor which specifically explains how the injury causes a total inability to work, we need not discuss the other records which are in evidence which the self-insured argues shows the claimant had an ability to work.

We hold that the claimant did not meet the requirements of Rule 130.102(d)(4) in that there was no narrative report from a doctor in the record, which specifically explained how the compensable injury causes a total inability to work. Accordingly, the hearing officer’s determination that the claimant is entitled to SIBs for the 10th quarter is reversed and a new determination rendered that the claimant is not entitled to SIBs for the 10th quarter.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
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P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge