

APPEAL NO. 181078  
FILED JULY 10, 2018

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 April 4, 2018, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the 16th quarter; (2) the appellant (carrier) is relieved from liability for the 16th quarter of SIBs, from September 6, 2017, through December 5, 2017, because the claimant failed to timely file her Application for [SIBs] (DWC-52) for the 16th quarter; and (3) the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 22, 2018, because the claimant failed to timely file her DWC-52 for the 17th quarter.

On appeal, the carrier is requesting a correction as to a stipulation regarding the ending date of the 17th quarter of SIBs. The carrier asserts that the parties stipulated that the 17th quarter of SIBs ran from December 6, 2017, "through March 6, 2018," rather than "through January 22, 2018," as stated in the ALJ's decision. Also, because of the incorrect ending date of the 17th quarter of SIBs, the carrier appeals the ALJ's determination that the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 22, 2018, because the claimant failed to timely file her DWC-52 for the 17th quarter. The appeal file does not contain a response from the claimant.

The ALJ's determinations that the claimant is not entitled to SIBs for the 16th quarter, and that the carrier is relieved from liability for the 16th quarter of SIBs, from September 6, 2017, through December 5, 2017, because the claimant failed to timely file her DWC-52 for the 16th quarter, have not been appealed and have become final pursuant to Section 410.169.

DECISION

Reformed in part and reversed and rendered in part.

The parties stipulated, in part, that on (date of injury), the claimant sustained a compensable injury, which resulted in an impairment rating of 15% or greater; the claimant has not commuted any portion of the impairment income benefits; and the 17th quarter of SIBs ran from December 6, 2017, through January 22, 2018, with a corresponding qualifying period that ran from August 24, 2017, through November 22, 2017.

## **STIPULATION**

We reform the ALJ's Finding of Fact No. 1.G. to correct an error as to the ending date of the 17th quarter of SIBs from January 22, 2018, to March 6, 2018. Pursuant to 28 TEX. ADMIN. CODE § 130.101(6) (Rule 130.101(6)), the 13-week period for the 17th quarter began on Wednesday, December 6, 2017, and ended on Tuesday, March 6, 2018.

We reform the ALJ's Finding of Fact No. 1.G. to:

The 17th quarter of SIBs ran from December 6, 2017, through March 6, 2018, with a corresponding qualifying period that ran from August 24, 2017, through November 22, 2017.

## **SIBS**

Eligibility criteria for SIBs entitlement are set forth in Section 408.142. Section 408.1415(a) states, in part, that the Texas Department of Insurance, Division of Workers' Compensation commissioner by rule shall adopt compliance standards for SIBs recipients. Rules 130.100-130.109, effective July 1, 2009, govern the eligibility of SIBs. Rule 130.104(c) provides, in part, that the injured employee shall file the DWC-52 with the carrier no later than 7 days before, and no earlier than 20 days before, the beginning of the quarter for which the injured employee is applying for SIBs. Rule 130.105(a) provides, in part, that an injured employee who does not timely file a DWC-52 with the carrier shall not receive SIBs for the period of time between the beginning date of the quarter and the date on which the form was received by the carrier.

The evidence supports the ALJ's finding that the claimant filed a DWC-52 for the 17th quarter of SIBs on January 29, 2018. However the ALJ determined that the carrier is relieved from liability for SIBs, from December 6, 2017, through January 22, 2018, because the claimant failed to timely file her DWC-52 for the 17th quarter. As previously mentioned above, the parties' stipulation was reformed to correct an error as to the ending date of the 17th quarter of SIBs from January 22, 2018, to March 6, 2018. Given that the ALJ determined that the claimant filed her application on January 29, 2018, and the 17th quarter began on December 6, 2017, and ended on March 6, 2018, the carrier would be relieved from liability for the 17th quarter of SIBs from December 6, 2017, through January 28, 2018.

Accordingly, we reverse that portion of the ALJ's determination that the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 22, 2018, because the claimant failed to timely file her DWC-52 for the 17th

quarter, and we render a new decision that the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 28, 2018.

### **SUMMARY**

We reform the ALJ's Finding of Fact No. 1.G. to state that the 17th quarter of SIBs ran from December 6, 2017, through March 6, 2018, with a corresponding qualifying period that ran from August 24, 2017, through November 22, 2017.

We reverse that portion of the ALJ's determination that the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 22, 2018, because the claimant failed to timely file her DWC-52 for the 17th quarter, and we render a new decision that the carrier is relieved from liability for the 17th quarter of SIBs, from December 6, 2017, through January 28, 2018.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RICHARD J. GERGASKO, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge