

APPEAL NO. 980062

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 December 5, 1997, The issues at the CCH were whether the appellant (claimant) was entitled to supplemental income benefits (SIBS) for the 11th compensable quarter and for the 12th compensable quarter. The hearing officer determined that the claimant was not entitled to SIBS for the 11th quarter but was entitled to SIBS for the 12th quarter. The claimant appeals only the determination of nonentitlement to SIBS for 11th quarter, urging that she made a good faith effort to find employment and asserting that the Appeals Panel should consider her illiteracy. No response has been filed.

DECISION

Affirmed.

Claimant sustained a compensable back injury in 1992, had back surgery in 1994, had not worked until starting a part-time job on September 4, 1997, continues to have back pain and has been released to work with restrictions. The filing period for the 11th quarter ran from May 2, 1997, through July 31, 1997. During the filing period the claimant did not contact the Texas Workforce Commission nor attempt to retrain for light-duty type employment but did make some 19 job contacts on seven different days during the period. There were significant gaps of time when no contacts were made. The claimant indicated that she relied on her daughter and husband to assist her in reading papers sent to her and in filling out applications. She stated that in September she started working part-time (3-4 hours per day) at a restaurant owned by her son-in-law.

The hearing officer found that during the filing period for the 11th quarter, the claimant did not attempt in good faith to find employment commensurate with her ability to work. From our review of the record and evidence presented, we are unwilling to conclude that the determination of the hearing officer was so against the great weight and preponderance of the evidence as to be clearly wrong or unjust, our standard of review on factual issues. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992. Whether good faith has been shown is generally a question of fact for the hearing officer to determine. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The Appeals Panel has stated that the pattern of a job search is pertinent to a determination of good faith and generally spans the whole filing period. Texas Workers' Compensation Commission Appeal No. 972482, decided January 15, 1998; Texas Workers' Compensation Commission Appeal No. 971209, decided August 11, 1997; Texas Workers'

Compensation Commission Appeal No. 970046, decided February 20, 1997. Since we conclude there is a sufficient evidentiary basis for the determination made by the hearing officer, the decision and order are affirmed.

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

Tommy W. Lueders  
Appeals Judge

Elaine M. Chaney  
Appeals Judge