

APPEAL NO. 990009

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 18, 1998. He (hearing officer) determined that the appellant (claimant) did not meet his burden to prove the direct result and good faith criteria and that he is not entitled to supplemental income benefits (SIBS) for the second quarter. Claimant appeals, contends that he met his burden to prove SIBS entitlement. He asserts that he was working two part-time jobs during the filing period; one as a musician with a band and one as a self-employed painter, and that the hearing officer's determinations are against the great weight and preponderance of the evidence. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

The record of the proceedings below was not forwarded to the Appeals Panel. Therefore, we reverse and remand to reconstruct the record.

Neither the tape recording of the hearing nor the documentary evidence was sent to the Appeals Panel from the field office. Section 410.203(a) requires the Appeals Panel to consider "the record developed at the contested case hearing." See *also* Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991. Because this panel cannot make a decision on the merits of the case without reviewing the complete record, we must remand for reconstruction of the record.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

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Judy Stephens  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Susan M. Kelley  
Appeals Judge