APPEAL NO. 991152

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 May 4, 1999. The single issue at the CCH was whether the appellant (claimant) was entitled to supplemental income benefits (SIBS) for the 12th compensable quarter. The hearing officer determined that the claimant was not entitled to SIBS for the 12th quarter and the claimant has appealed, urging error in several findings of fact in that the evidence showed that the claimant had no ability to work and, alternatively, that she made a good faith effort to seek employment during the filing period for the quarter in issue. Curiously, the claimant also appeals the finding that her unemployment was a direct result of the compensable injury, a finding favorable to her position. The respondent (carrier) argues that there is sufficient evidence to support the findings and conclusion reached by the hearing officer and asks that the decision be affirmed.

DECISION

Affirmed.

The hearing officer's Decision and Order sets forth fairly and adequately the pertinent evidence in the case and it will only be summarized here. The claimant sustained a slip-and-fall back injury on _____, and except for one and one-half days, has not worked since. She was determined to be at maximum medical improvement on June 6, 1995, with a 15% impairment rating. She claims that she is not able to work but that she did look for employment at some 22 places during the filing period, which ran from October 14, 1998, through January 13, 1999. Medical reports in evidence date from 1995 and show the course of the claimant's condition and treatment. Although there are conflicting opinions included in the medical evidence, including reports from claimant's current treating doctor, Dr. C, D.C., who is of the opinion that the claimant cannot work, there is sufficient medical evidence that the claimant has some ability to work, requiring a good faith job search. Section 408.143. In this regard, the hearing officer found persuasive medical evidence from Dr. L, who examined the claimant and continued to state the claimant was able to work and cited an MRI, a CT scan and a myelogram that were found to be essentially normal. We have reviewed the medical evidence and cannot conclude that the hearing officer's determination that the claimant had some ability to work was so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Employers Casualty Company v. Hutchinson, 814 S.W.2d 539 (Tex. App.-Austin 1991, no writ); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

The claimant testified and offered evidence that she sought employment at some local prospective employers. She apparently contacted most of the prospective employers on a walk-in basis (cold calls) and stated that none of them called her or offered her a job. She did not follow up with employment agencies she contacted. A vocational rehabilitation case manager procured by the carrier was rejected by the claimant's attorney and claimant

did not cooperate with the case manager, although she did contact two prospective employers out of the various lists sent to her. The case manager testified that she investigated and contacted the various employers listed by the claimant in her application and could not verify a number of them. She also indicated that a number of the places were small employers with no openings.

The hearing officer determined that a good faith attempt to seek employment had not been shown and noted that the claimant basically geographically limited her contacts, essentially made cold calls at places with few or no openings, did not follow up appropriately, and did not have convincing medical evidence to so limit her search. We do not find overwhelming evidence supporting a contrary finding and conclude that there is a sufficient evidentiary basis to support the hearing officer's findings and conclusions. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). We have repeatedly stated that it is the pattern of the search, taking into account all the factors, that should be considered in determining whether a good faith attempt has been shown. Texas Workers' Compensation Commission Appeal No. 982987, decided February 4, 1999; Texas Workers' Compensation Commission Appeal No. 982210, decided November 4, 1998. It is apparent that this is what the hearing officer did in arriving at her decision in this case. Accordingly, we affirm the decision and order.

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

_____
Joe Sebesta
Appeals Judge

_____
Alan C. Ernst
Appeals Judge