

APPEAL NO. 991726

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 convened on September 2, 1998, and concluded on May 27, 1999. The May 27, 1999, hearing was consolidated with a hearing on other issues, the subject of a separate decision and order, and set out in Texas Workers' Compensation Commission Appeal No. 991443, decided on this same date. The issues in this case involved the appellant's (claimant) entitlement to supplemental income benefits (SIBS) for the second and third compensable quarters. An interlocutory order had been issued requiring the respondent (carrier) pay SIBS for the two quarters in issue. The hearing officer determined that the claimant was not entitled to SIBS for the second and third quarters because his impairment rating (IR) was zero percent, as decided in the other part of the consolidated hearing (Appeal No. 991443, decided this same date), and he was thus not qualified for SIBS. The claimant appeals, urging that in the event that the Appeals Panel reverses the hearing officer's determination on claimant's IR, that the claimant be held to be entitled to SIBS for the second and third compensable quarters. Carrier responds that the zero percent IR should be affirmed but even if not, the decision on denial of SIBS should be upheld.

DECISION

Affirmed.

Sections 408.142(a) and 408.143 provide that an employee is entitled to SIBS when the impairment income benefits (IIBS) period expires if the employee has: (1) an IR of at least 15%; (2) not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; (3) not elected to commute a portion of the IIBS; and (4) made a good faith effort to obtain employment commensurate with his or her ability to work. In Appeal No. 991443, decided this date, the Appeals Panel upheld the

hearing officer's determination that the claimant's IR was zero percent as certified in a revised report by the Texas Workers' Compensation Commission-selected designated doctor. Thus, the claimant has not satisfied one of the essential requirements for entitlement to SIBS, that is, he does not have an IR of at least 15%. Accordingly, we affirm the decision of the hearing officer that the claimant is not entitled to SIBS for the second and third compensable quarters.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Gary L. Kilgore
Appeals Judge