

APPEAL NO. 000053

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 8, 1999, a hearing was held. The hearing officer considered issues of supplemental income benefits (SIBS) for the sixth compensable quarter and average weekly wage (AWW) and made findings of fact, a conclusion of law, and a "decision," found at the end of her opinion, that awarded SIBS to appellant (claimant) for the 10th quarter; a conclusion of law and the "decision" stated that the AWW was \$665.16. Respondent (carrier) did not appeal this decision. Claimant asserts that Findings of Fact Nos. 2, 3, 4, and 6 and Conclusion of Law No. 3, all of which addressed the 10th quarter, are against the great weight and preponderance of the evidence since the quarter in issue was the sixth quarter; claimant adds that he is entitled to SIBS for the sixth quarter, "not the 10th." The appeals file does not contain a reply from carrier.

DECISION

We reverse certain findings of fact but affirm a conclusion of law and the decision and order, found at the end of the hearing officer's opinion, as the latter are corrected by the Order to Correct Clerical Error issued by the Director of Hearings, dated December 28, 1999. The affirmed conclusion of law and decision and order, as corrected, state that claimant is entitled to SIBS for the sixth quarter and that his AWW is \$665.16.

Since there is no issue on the merits regarding the evidence and law applicable to sixth quarter SIBS, we will only state that the qualifying period for that quarter began on July 30, 1998, while the quarter itself began on October 29, 1998. There is no question that this case was governed by SIBS rules in effect prior to the new, 1999 SIBS rules. The record has been reviewed and documents and testimony sufficiently support the determinations that claimant, during the qualifying period of the sixth quarter, attempted in good faith to find work (a job was obtained during the sixth quarter) and that claimant's unemployment during the qualifying period of the sixth quarter was a direct result of the impairment.

An Order was issued on December 28, 1999, which corrected the conclusion of law and the "decision," found at the end of the hearing officer's opinion, to read "6th quarter" in place of "10th quarter." The hearing officer's Statement of Evidence adequately reflects the evidence presented at the hearing, which was relevant to sixth quarter SIBS. In addition, the initial findings of fact, which reflect matters stipulated by the parties, accurately address the sixth quarter by its correct number. While Findings of Fact Nos. 2, 4, and 6 refer to the 10th quarter and do not contain facts peculiar to any particular quarter, Finding of Fact No. 3 also names the 10th quarter but shows by facts it recites that it addressed the sixth quarter qualifying period. Findings of Fact Nos. 2, 3, 4, and 6 are reversed and new Findings of Fact Nos. 2, 3, 4, and 6 are rendered, using the same language as those reversed except substituting "sixth quarter" for "tenth quarter." These findings of fact

sufficiently support the clerically corrected conclusion of law that says claimant is entitled to SIBS for the sixth quarter.

While Finding of Fact No. 7 does not contain the figure of \$665.16 as the AWW, it does contain all the figures necessary to reach that figure through addition. Therefore, the findings of fact sufficiently support the conclusion of law and the corrected "decision," found at the end of the hearing officer's opinion, which state that the AWW is \$665.16.

As corrected by the Order to Correct Clerical Error, the decision and order found at the end of the hearing officer's opinion are sufficiently supported by the evidence and are affirmed. Claimant is entitled to SIBS for the sixth quarter and his AWW is \$665.16.

Joe Sebesta  
Appeals Judge

CONCUR:

Robert W. Potts  
Appeals Judge

Susan M. Kelley  
Appeals Judge