

APPEAL NO. 002882

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 20, 2000, a hearing was held. The hearing officer decided that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the fifth quarter. The appellant (carrier) appealed, asserting that the hearing officer erred in finding that the claimant had made a good faith effort to seek employment commensurate with his ability to work up through the date the claimant entered a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) and that the claimant was only in school for four hours a day in the vocational rehabilitation program and should have looked for part-time work in addition to attending the vocational rehabilitation program. The claimant responded that the hearing officer's decision is correct and should be affirmed.

DECISION

We affirm the decision of the hearing officer.

The hearing officer did not err in determining that the claimant had made a good faith effort to seek employment commensurate with his ability to work during the qualifying period for the fifth quarter of SIBs. It is undisputed that the claimant was enrolled in and satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC from early June 2000 through the end of the qualifying period on July 8, 2000. As we said in Texas Workers' Compensation Commission Appeal No. 001536, decided August 9, 2000, the claimant's enrollment and satisfactory participation in the vocational rehabilitation program in this matter satisfied the definition of "good faith" set forth in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)) and a claimant need not satisfy Rule 130.102(e) if such claimant has satisfied one of the good faith elements in Rule 130.102(d), citing Texas Workers' Compensation Commission Appeal No. 000321, decided March 29, 2000.

As to the carrier's argument that the claimant did not make a good faith effort to seek employment commensurate with his ability to work because he failed to look for work in addition to participating in the TRC program, we note that this argument has been raised a number of times since the adoption of Rule 130.102(d) and has been soundly rejected. We see no reason to further address that question at this juncture, other than to say we find no merit in the carrier's argument.

The hearing officer's decision is affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge