

APPEAL NO. 010290

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 held on January 25, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth, seventh, and eighth quarters and that the claimant has permanently lost entitlement to SIBs because she was not entitled to SIBs for four consecutive quarters. In her appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the sixth, seventh, and eighth quarters because she did not make a good faith search for employment in the qualifying periods for those quarters. The question of whether the claimant made a good faith effort to look for work commensurate with her ability to work in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)) is a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer was not persuaded that the claimant's efforts to look for work rose to the level of a good faith search for employment in the qualifying periods. Nothing in our review of the record indicates that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). As such, the hearing officer likewise did not err in determining that the claimant is not entitled to SIBs for the sixth, seventh, and eighth quarters.

The parties stipulated that the claimant was determined not to be entitled to SIBs for the fifth quarter. Given our affirmance of the determination that the claimant is not entitled to SIBs for the sixth, seventh, and eighth quarters, we likewise affirm the determination that the claimant has permanently lost entitlement to SIBs under Section 408.146(c).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge