

APPEAL NO. 010603

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 February 12, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fourth quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102. The claimant provided no documentation of a job search during the relevant qualifying period. The claimant claimed that he had no ability to work during the relevant qualifying period due to the compensable back injury sustained on _____. There was conflicting evidence presented at the hearing. Based on the medical records, the hearing officer determined that the claimant had some ability to work during the relevant qualifying period. Since the claimant did not document any job search, the hearing officer found that the claimant did not make a good faith effort to obtain work commensurate with his ability to work during the relevant qualifying period and decided that the claimant is not entitled to SIBs for the fourth quarter. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge