

APPEAL NO. 010913
FILED JUNE 7, 2001

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 April 10, 2001. With respect to the sole issue before him, the hearing officer determined that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the fourth compensable quarter. The appellant (carrier) appeals and seeks reversal on sufficiency grounds. There is no response in the file from the claimant.

DECISION

Affirmed.

The hearing officer did not err in resolving that the claimant was entitled to SIBs for the fourth compensable quarter. The evidence adduced at the hearing included the claimant's Application for [SIBs] (TWCC-52), which documented the claimant's weekly job search and showed at least one contact per week of the qualifying period. In addition, the claimant testified she was working with the Texas Rehabilitation Commission and using resources at the Texas Workforce Commission as additional aides in her search for employment commensurate with her ability. The claimant testified that she ultimately became employed at the beginning of the fourth SIBs quarter.

The parties presented evidence that genuinely conflicts on the disputed issues. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not disturb the challenged findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

For these reasons, we affirm the decision and order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge