

APPEAL NO. 010973  
FILED JUNE 14, 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 12, 2001. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fourth quarter. In her appeal, the claimant contends that the hearing officer's determinations that she had some ability to work, that she did not make a good faith effort to look for work commensurate with her ability to work, and that she is not entitled to SIBs for the fourth quarter are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed, as modified.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the fourth quarter, which ran from January 20 to April 20, 2001, and had a corresponding qualifying period of October 8, 2000, to January 6, 2001.<sup>1</sup> Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee "has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work." The hearing officer determined that there was no narrative report that explained how the claimant's injury caused a total inability to work and that another record shows that the claimant is able to work. The hearing officer was acting within his province as the fact finder under Section 410.165(a) in making that determination. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, we will not disturb that determinations, or the determination that the claimant is not entitled to SIBs for the fourth quarter, 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).

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<sup>1</sup> In his statement of the issue, the hearing officer incorrectly identifies the fourth quarter as the period from January 20 to April 20, 2000. This was clearly a clerical error, as the parties stipulated that the fourth quarter was comprised of the period from January 20 to April 20, 2001. Thus, the decision will be modified to reflect the correct dates of the quarter in the statement of the issue.

The hearing officer's decision and order are affirmed as modified to reflect the correct dates of the fourth quarter.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Michael B. McShane  
Appeals Judge