

APPEAL NO. 011039
FILED JUNE 20, 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 March 6, 2001. With respect to the sole disputed issue before him, the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs), for the 12th compensable quarter. The claimant appeals and seeks reversal on sufficiency grounds, claiming that she did engage in a good faith search for employment commensurate with her ability. The respondent (carrier) responds and urges that the hearing officer's decision and order be affirmed in all respects.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was not entitled to 12th quarter SIBs. The hearing officer wrote that the carrier presented evidence, through the testimony of a private vocational field case manager hired by the carrier to investigate the claimant's job search, that called into question the accuracy and validity of the information the claimant provided on her Application for [SIBs] TWCC-52. The hearing officer found that the "Claimant did not make a good faith attempt to obtain employment commensurate with her ability to work."

The parties presented conflicting evidence on the issue in dispute. 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). The hearing officer's determination is not 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)), although another fact finder could have reached a different conclusion. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). Therefore, this tribunal will not disturb the challenged findings herein. 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:

Judy L. S. Barnes
Appeals Judge

Philip F. O'Neill
Appeals Judge