

APPEAL NO. 011088  
FILED JULY 05, 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 26, 2001. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the seventh quarter. The hearing officer also determined that appellant (carrier) is relieved from liability for SIBs due to the late filing of claimant's Application for [SIBs] (TWCC-52), for the period beginning December 15, 2000, through January 7, 2001. Carrier appealed these determinations, challenging the hearing officer's determinations regarding good faith, direct result, and carrier's relief from liability. The file did not contain a response from claimant.

DECISION

We affirm.

We have reviewed the complained-of good faith determination and conclude that this issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. Claimant's TWCC-52, as supplemented, showed a weekly job search. We conclude that the hearing officer's determination regarding good faith 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).

Regarding direct result, we note that the hearing officer's determination about claimant's restrictions is supported by the functional capacity evaluation report dated September 2000. From the evidence, the hearing officer could find that claimant could not perform the duties of her prior job and that her unemployment is a direct result of her impairment. See Texas Workers' Compensation Commission Appeal No. 002091, decided October 23, 2000.

Carrier contends that it should be relieved of liability through February 27, 2001, because claimant did not supplement her TWCC-52 with additional job searches until that date. However, claimant filed her TWCC-52 with carrier on January 8, 2001. The fact that she sent a handwritten page to carrier on February 27, 2001, showing additional job searches does not mean that she failed to file a TWCC-52 until that date. See Texas Workers' Compensation Commission Appeal No. 010840, decided May 24, 2001.

We affirm the hearing officer's decision and order.

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Susan M. Kelley  
Appeals Judge