

APPEAL NO. 011642  
FILED AUGUST 22, 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 June 25, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 17th quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the 17th quarter. 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 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the 17th quarter. The qualifying period for the 17th quarter was from December 24, 2000, to March 24, 2001. The claimant testified that during the qualifying period he had no ability to work due to his compensable injury. It is undisputed that during the qualifying period the claimant did not work, did not look for work, and was not enrolled in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission or a private provider.

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. Rule 130.102(e) provides in part that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts.

The claimant's treating doctor reported that the claimant is unable to work due to chronic pain syndrome from his compensable injury. The claimant was examined by a doctor at the carrier's request during the qualifying period and that doctor reported that the claimant is capable of performing a sedentary type of job.

The hearing officer found that during the qualifying period the claimant had an ability to work in a sedentary position with restrictions. The hearing officer also found that the claimant failed to provide a narrative report from a doctor which specifically explained how the injury caused a total inability to work and that there was medical evidence that the claimant had an ability to work at the sedentary level with restrictions during the qualifying period. The

hearing officer further found that during the qualifying period the claimant did not make a good faith effort to obtain employment commensurate with his ability to work and concluded that the claimant is not entitled to SIBs for the 17th quarter. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS, 78701**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge