

APPEAL NO. 011969  
FILED SEPTEMBER 27, 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 July 16, 2001. She determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth quarter of eligibility because he failed to make a good faith search for employment commensurate with his ability to work.

The claimant has appealed that determination as against the great weight of the evidence, pointing out that he lacked the ability to work during the qualifying period. The respondent (carrier) responds that the decision is sufficiently supported.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err by determining that the claimant failed to prove entitlement to SIBs within the parameters of 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102 (d)(4)). Testimony alone is no longer sufficient, since the effective date of this rule is January 1999, to support a determination that a claimant is totally unable to work such that no search for employment need be made. There is a detailed record from a required medical examination doctor setting how the claimant's condition does not preclude all work activity. The hearing officer is the sole judge of the relevance, the materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this is the case here, and affirm the decision and order.

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

**GEORGE MICHAEL JAMES  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Michael B. McShane  
Appeals Judge