

APPEAL NO. 012283
FILED NOVEMBER 5, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* A contested case hearing (CCH) was held on June 22, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) attempted in good faith to obtain employment commensurate with his ability to work and that the claimant is entitled to supplemental income benefits (SIBs) for the eighth quarter. The respondent (carrier) appealed that decision. In Texas Workers' Compensation Commission Appeal No. 011610, decided August 29, 2001, the Appeals Panel reversed the hearing officer's decision and remanded the case to the hearing officer for the purpose of obtaining compliance with HB 2600, which amended Section 410.164 by the addition of subsection (c). The address the carrier had provided for its registered agent in its carrier information form was a post office box, and the remand was done so that a street address could be provided by the carrier for its registered agent. There was no other purpose stated in Appeal No. 011610 for the remand.

In the decision and order on remand, the hearing officer states that no rehearing was held and that the carrier provided a new carrier information form that complied with the Appeals Panel decision, which it did do. No new evidence, other than the new carrier information form and Appeal No. 011610, is listed in the decision on remand. However, although the hearing officer states in his decision on remand that the cause of the remand was the post office box address given by the carrier in its information form and that "no legal or factual issue was cited in the remand," the hearing officer nevertheless changed his finding on the good faith criterion for SIBs eligibility, finding that the claimant did not attempt in good faith to obtain employment commensurate with his ability to work, and decided that the claimant is not entitled to SIBs for the eighth quarter. The claimant appealed the hearing officer's decision on remand and the carrier responded.

DECISION

The hearing officer's decision on remand is reversed and a decision is rendered that the claimant is entitled to SIBs for the eighth quarter.

The hearing officer's decision on remand exceeded the scope of the purpose of the remand. The remand was for the purpose of obtaining compliance with HB2600 and was not for the purpose of a reconsideration of the disputed SIBs issue. Thus, the hearing officer's decision on remand against the claimant is disregarded. 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 hearing officer's original decision in favor of the claimant 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. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). We note that at the CCH held on June 22, 2001, the carrier did not object when, at the claimant's request, the hearing officer stated that he would take official notice of the contents of the hearing officer's decision for the sixth and seventh

quarters and thus no complaint was preserved for appeal with regard to that action. Dicker v. Security Company, 474 S.W.2d 334, 336 (Tex. Civ. App.-Waco 1971, writ ref'd n.r.e.).

The hearing officer's decision on remand is reversed and a decision is rendered that the claimant is entitled to SIBs for the eighth quarter.

The true corporate name of the insurance carrier is **NATIONAL FIRE INSURANCE COMPANY OF HARTFORD** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge