

APPEAL NO. 012470
FILED NOVEMBER 14, 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 September 14, 2001. The hearing officer resolved the disputed issue by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third quarter. The claimant appealed, arguing that he is entitled to SIBs for the third quarter as a matter of law. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

There was no testimonial evidence presented at the hearing, nor did either party offer oral argument. The hearing officer admitted all of the offered exhibits, and the case was submitted to the hearing officer for resolution. The qualifying period for the claimant's third quarter of SIBs was from March 10, 2001, through June 7, 2001. The claimant did not seek employment during that period, asserting that he had a total inability to work. The claimant met with a counselor at the Texas Rehabilitation Commission on May 7, 2001, and it was determined that he was not eligible for their services due to medical instability. The claimant offered into evidence a letter from his treating doctor indicating that he is unable to be productive, even in a sedentary environment. The carrier introduced medical reports indicating that the claimant was able to do at least sedentary work during the qualifying period.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (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 hearing officer, who is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), determined that the claimant was not entitled to SIBs for the third quarter because the letter from the claimant's doctor did not constitute a narrative report as required by Rule 130.102(d)(4); that the claimant did not make a good faith job search as required by Rule 130.102(e); and, that other records show that the claimant had some ability to work during the qualifying period for the third quarter. We are satisfied that the hearing officer's determinations are sufficiently supported by the evidence in the record, and are not so against the great weight and preponderance of the evidence as to

be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL GUARDIAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge