

APPEAL NO. 012571  
FILED DECEMBER 6, 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 October 9, 2001. The appellant (claimant) appeals the hearing officer's determination that she is not entitled to supplemental income benefits (SIBs) for the second through eighteenth quarters. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

The evidence supports the hearing officer's factual determination. The hearing officer has set forth the facts at considerable length and we incorporate those facts by reference here. The SIBs applications for the periods in issue were not filed until June 8, 2001.

There is essentially one letter presented by the claimant from her treating doctor stating that she had no ability to work. Records from early functional capacity evaluations record inconsistent effort. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). Entitlement to SIBs is a question for the fact finder. It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). We have reviewed the evidence and find that for periods of time prior to the effective date of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d) (Rule 130.102(d)), the hearing officer did not err in determining that the claimant did not prove a total inability to work such that no search could be equated to a good faith search for employment. For those periods affected by Rule 130.102(d), we agree that the hearing officer could find that the requirements of that rule were not satisfied here. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

---

Susan M. Kelley  
Appeals Judge

CONCUR:

---

Gary L. Kilgore  
Appeals Judge

---

Robert W. Potts  
Appeals Judge