

APPEAL NO. 020439
FILED APRIL 10, 2002

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 January 24, 2002. The hearing officer resolved the sole issue before him by determining that during the qualifying period for the fourth quarter of supplemental income benefits (SIBs), the respondent (claimant) had satisfactorily participated in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) and was thus entitled to SIBs for the fourth quarter. The appellant (carrier) appealed, arguing that the claimant's TRC participation was not enough to make him eligible for SIBs for the fourth quarter. The claimant responded, urging affirmance.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in determining that the claimant is entitled to SIBs for the fourth 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 hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). In reaching his decision, the hearing officer determined that, during the qualifying period for the fourth SIBs quarter, the claimant's underemployment was a direct result of his compensable injury and that the claimant satisfactorily participated in a full-time vocational rehabilitation program sponsored by the TRC. Whether a claimant has made a good faith effort (pursuant to Rule 130.102(d)) to obtain employment is a question of fact for the hearing officer to resolve. This includes whether the claimant has satisfactorily participated in a TRC program. See Rule 130.102(d)(2). Upon a full review of the record, we conclude that the hearing officer's determination that the claimant is entitled to SIBs for the fourth quarter is supported by the evidence, and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES CORPORATION
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge