

APPEAL NO. 020875
FILED MAY 29, 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 March 19, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 10th compensable quarter. The appellant (carrier) contends that this determination is not supported by sufficient evidence. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Whether the claimant satisfied the good faith requirement for SIBs entitlement through self-employment was a factual question for the hearing officer to resolve. Efforts in pursuit of self-employment can constitute a good faith job search. Texas Workers' Compensation Commission Appeal No. 980548, decided April 1, 1998. In order for the claimant to sustain his burden of proof in self-employment cases, he must establish that he made efforts to solicit business or customers in the filing period. Texas Workers' Compensation Commission Appeal No. 94918, decided August 26, 1994; Texas Workers' Compensation Commission Appeal No. 950114, decided March 7, 1995; Texas Workers' Compensation Commission Appeal No. 950303, decided April 12, 1995. The hearing officer could, and did, find from the evidence that the claimant sustained his burden of proving that his underemployment was a direct result of his impairment and that he made a good faith effort to look for work commensurate with his ability to work by establishing a new business and attempting to procure customers. Because the hearing officer found that the claimant's self-employment satisfied the good faith requirement, the claimant was not additionally required to seek employment during every week of the qualifying period.

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). 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). 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. 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). We have reviewed the matters complained of by the carrier on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

We affirm the decision and order of the hearing officer.

The true corporate name of the self-insured is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**HAROLD FISHER, PRESIDENT
3420 EXECUTIVE CENTER DRIVE #200
AUSTIN, TEXAS 78731.**

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge