

APPEAL NO. 020938  
FILED JUNE 7, 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 April 2, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 13th or 14th quarters. The claimant appealed. No response was received from the carrier.

DECISION

The hearing officer's decision is affirmed.

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 SIBs criteria in issue are whether the claimant earned less than 80% of his average weekly wage as a direct result of the impairment from the compensable injury and whether he made a good faith effort to obtain employment commensurate with his ability to work during the qualifying periods for the 13th and 14th quarters. The hearing officer found against the claimant on both the good faith and direct result criteria for both quarters in issue. The claimant contends that he is entitled to SIBs for the 13th quarter because he searched for a job in each week of the qualifying period, and contends that in the qualifying period for the 14th quarter he had no ability to work. Whether the claimant had an ability to work and made a good faith effort to seek employment commensurate with that ability were questions of fact for the hearing officer to resolve, as was the question of whether the claimant's unemployment was a direct result of his impairment from his compensable injury.

In evidence was a report dated September 9, 1999, from Dr. M, which stated that the claimant could return to work at that time with no restrictions of any kind. The record did not contain any additional written reports that restricted the claimant's ability to work after September 9, 1999, although there are reports pertaining to the claimant's depression. The claimant has a college degree. It appears that he is pursuing another college degree on his own.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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).

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 SERVICE COMPANY  
800 BRAZOS, SUITE 750  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge