

APPEAL NO. 021529
FILED AUGUST 2, 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 May 9, 2002. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the second, third, fourth, and fifth quarters; that because claimant did not timely file the Application for [SIBs] (TWCC-52), appellant (carrier) is relieved of liability for SIBs for the entire second quarter; that carrier is relieved of liability for SIBs for the third quarter for the period from June 7 through August 3, 2001; that carrier is relieved of liability for SIBs for the fourth quarter for the period from September 6 through November 9, 2001; and that carrier is relieved of liability for SIBs for the fifth quarter for the period from December 6, 2001, through January 16, 2002. Carrier appealed the determination regarding entitlement only, contending that claimant failed to meet her burden regarding the good faith and direct result criteria. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Carrier contends claimant is not entitled to SIBs because she did not prove that she was enrolled in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying periods in question. However, the hearing officer could rely on claimant's testimony, along with letters from the TRC, in determining that claimant met her burden regarding good faith.

Carrier contends claimant is not entitled to SIBs because she failed to prove that her unemployment is a direct result of her impairment. Carrier asserts that claimant turned down an offer of employment that was within her restrictions, and this was the reason for her unemployment. Carrier contends that claimant turned down the offer of employment because she preferred to pursue retraining as an office worker. Although carrier argues that claimant's act of turning down the childcare job was a form of self-limitation and broke the connection between the impairment and unemployment and underemployment, the trier of fact evidently believed the opposite, that she turned down the job because it exceeded her capabilities. This determination 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).

We have reviewed the complained-of determinations regarding SIBs entitlement and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that

the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Roy L. Warren
Appeals Judge