

APPEAL NO. 021979
FILED SEPTEMBER 17, 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 June 28, 2002. The hearing officer resolved the disputed issues by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) corresponding to the first compensable quarter and that the dispute regarding second quarter SIBs was not ripe for adjudication. On appeal, the claimant expresses disagreement with the determination that he is not entitled to first quarter SIBs. The respondent (carrier) urges that the claimant's appeal should not be reviewed because it was not timely filed. Alternatively, the carrier argues that the claimant's appeal is deficient in that it does not clearly and concisely identify the determinations that he is disputing or state the relief he is requesting. The carrier urges affirmance of the hearing officer's decision.

DECISION

We affirm the hearing officer's decision.

The carrier contends that the claimant's appeal was not timely filed and, consequently, should not be given consideration. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in the Texas Government Code, of the date of receipt of the hearing officer's decision. Texas Workers' Compensation Commission (Commission) records indicate that the hearing officer's decision was mailed to the claimant on July 8, 2002. Applying Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on July 13, 2002, and the deadline for the claimant to file an appeal was August 2, 2002. The envelope containing the claimant's appeal reflects that it was mailed on August 1 and received by the Commission on August 2, 2002. Therefore the appeal was timely filed.

With regard to the carrier's challenge to the adequacy of the claimant's appeal, we note that Section 410.202(c) provides that a request for appeal must clearly and concisely rebut or support the decision of the hearing officer on each issue on which review is sought. Early on, and repeatedly since, we have held that no particular form of appeal is required and that even an appeal that is terse and unartfully worded will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993, and cases cited therein. We have also held that appeals that lack specificity will be treated as attacks on the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. In the present case, while the claimant's request for review does not argue the specific evidence that constitutes the great weight and preponderance of the evidence contrary

to the hearing officer's decision, it is apparent that the claimant is disputing the determination that he is not entitled to first quarter SIBs. Therefore, the appeal is adequate to invoke our jurisdiction.

Sections 408.142(a) and 408.143 provide that an employee is entitled to SIBs if upon the expiration of the impairment income benefits (IIBs) period the employee has: (1) an impairment rating of at least 15%; (2) not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; (3) not elected to commute a portion of the IIBs; and (4) has attempted in good faith to obtain employment commensurate with the employee's ability to work. Rule 130.102(e), applicable in this case, provides that in order for an injured employee to satisfy the good faith requirement for SIBs entitlement, the employee shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. Whether the claimant satisfied the good faith requirement for SIBs entitlement was a factual question for the hearing officer to resolve.

In the present case, neither the claimant's Application for SIBs (TWCC-52), nor any other documentation, reflect that the claimant made any job contacts during the week of August 12 through August 18, 2001. The hearing officer properly determined that the claimant did not make a good faith effort to look for work commensurate with his ability to work during the first quarter qualifying period because the claimant failed to document a job search during each week of the period. In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**GARY SUDOL
ZURICH NORTH AMERICA
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge