

APPEAL NO. 022173  
FILED SEPTEMBER 26, 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 July 15, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fourth quarter.

The claimant appealed, asserting that the 50 job contacts (which the hearing officer stated were 40 job contacts) established a good faith effort to obtain employment commensurate with his ability to work, explaining the job search in another city, and arguing that he had been entitled to SIBs for the third quarter by the same hearing officer on fewer job contacts. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by meeting the requirements of Rule 130.102(e). The parties stipulated to the compensable injury, requisite impairment rating and that the qualifying period for fourth quarter was from February 1 through May 2, 2002.

Rule 130.102(d)(5) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has provided sufficient documentation as described in subsection (e) of Rule 130.102 to show that he or she has made a good faith effort to obtain employment. Rule 130.102(e) provides that, except as provided in subsection (d)(1), (2), (3) and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity 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. That subsection then lists information to be considered in determining whether a good faith effort has been made. Although the claimant lists 50 job contacts (the hearing officer erroneously states 40 job contacts) during the qualifying period the hearing officer specifically found that the claimant's job search was structured in an attempt to qualify for SIBs, not to find a job. As the hearing officer notes, the purpose for SIBs is to assist the injured employee in obtaining employment commensurate with his ability, not just to qualify to additional income benefits.

The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The hearing officer determined that the claimant's efforts were made only to qualify for SIBs rather than a good faith effort to obtain employment. Upon our review of the record, we conclude that the hearing officer's

determination 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.

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **GREAT AMERICAN INSURANCE COMPANY OF NEW YORK** and the name and address of its registered agent for service of process is:

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge