

APPEAL NO. 022313
FILED OCTOBER 24, 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 August 6, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the seventh quarter because his unemployment during the qualifying period was a direct result of his impairment and he was satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC). The appellant (carrier) appealed, asserting that the claimant's unemployment during the qualifying period in question was not a direct result of the impairment from his compensable injury, and that he was not satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC. The claimant responded, urging affirmance.

DECISION

We affirm the hearing officer's decision and order.

The parties stipulated that the qualifying period for the quarter in question began on January 10, 2002, and ended on April 10, 2002. In evidence was an individualized plan for employment dated August 16, 2000, which required the claimant to take 12 credit hours per semester and maintain a 2.0 grade point average. A transcript in evidence showed that the claimant had, since January 1999, taken course "loads" ranging from 6 to 12 hours per semester or summer term. Also in evidence was a letter from the TRC dated May 7, 2002, which indicated that the claimant was enrolled in 5 classes (11 hours) during the 2002 spring semester; the counselor stated that this was considered full-time for this semester. The evidence reflects that the spring semester began on January 14, 2002, and ended on April 26, 2002. The claimant testified that on April 22, 2002, he dropped a 3-credit course and the record reflects that he only completed 8 credits for the spring semester. We note that April 22, 2002, is after the relevant qualifying period had ended.

Whether a claimant's unemployment is the direct result of the compensable injury or that the good faith requirement for SIBs entitlement is satisfied are questions of fact for the hearing officer to resolve pursuant to the requirements of TEX. W.C. Comm'n, 28 TEX. ADMIN. CODE §§ 130.102(d) and (e) (Rules 130.102(d) and (e)). The hearing officer determined that the claimant did satisfy these requirements by showing that he was enrolled in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the TRC during the qualifying period in question. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, 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 trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the decision of the hearing officer.

The decision and order of the hearing officer 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

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

Susan M. Kelley
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge