

APPEAL NO. 022510  
FILED NOVEMBER 20, 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 September 11, 2002. The hearing officer determined that the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the first and second quarters but is entitled to SIBs for the third quarter. The appellant (carrier) appeals the hearing officer's determination with regard to third quarter SIBs, on sufficiency grounds. The claimant did not file a response. The hearing officer's determination that the claimant is not entitled to SIBs for the first and second quarters was not appealed and has, therefore, become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to third quarter SIBs. At issue is whether the claimant made a good faith effort to seek employment commensurate with his ability to work and whether his underemployment was a direct result of the impairment for the compensable injury. These were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer's direct result determination is supported by the evidence that the claimant sustained a serious injury with lasting consequences and cannot reasonably return to the job he was doing at the time of the injury. The factors that the carrier emphasizes on appeal to challenge the determination that the claimant did make a good faith job search in the qualifying period for the third quarter are the same factors it emphasized at the hearing. The significance of those factors was a matter for the hearing officer to resolve. The hearing officer was persuaded that the claimant made a good faith effort to look for work in the relevant qualifying period. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists to reverse that determination, or the determination that the claimant is entitled to SIBs for the third quarter, on appeal. 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 carrier is **AMERICAN HOME ASSURANCE 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.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Veronica Lopez  
Appeals Judge