

APPEAL NO. 022560  
FILED NOVEMBER 7, 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 28, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter. The claimant appeals and the respondent (carrier) responds, 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. Rule 130.102(e) provides that a claimant with an ability to work "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." At issue in this case is whether the hearing officer committed error in finding that the claimant did not seek employment in good faith commensurate with her ability to work. Presented with evidence that the claimant only followed up on 6 of 30 job leads given to her by the carrier's vocational rehabilitation specialist, the hearing officer determined that the claimant refused the services of the private provider of vocational rehabilitation services retained by the carrier. Evaluating the number of job searches made, and the type of work sought, as well as the refusal to follow up on leads for employment within her restrictions, the hearing officer determined that the claimant did not make a good faith search for employment commensurate with her ability to work. She therefore concluded that the claimant was not entitled to SIBs for the fifth quarter.

We have previously held that the question of whether a claimant made a good faith job search is a question of fact. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994; Texas Workers' Compensation Commission Appeal No. 94533, decided June 14, 1994. 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. 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 Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we find the evidence sufficient to support the determination of the hearing officer that the claimant is not entitled to SIBs for the fifth quarter.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Susan M. Kelley  
Appeals Judge