

APPEAL NO. 022765  
FILED DECEMBER 23, 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 October 16, 2002. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 14th quarter. The appellant (self-insured) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision, as reformed herein, is affirmed.

The hearing officer's list of stipulations is incomplete and incorrect. We reform the hearing officer's decision to reflect that the parties stipulated as follows:

- A. On \_\_\_\_\_, the claimant was the employee of (self-insured) who had Texas workers' compensation coverage through self-insurance.
- B. Venue is proper in the Field Office of the Texas Workers' Compensation Commission.
- C. On \_\_\_\_\_, the claimant sustained a compensable injury to the cervical spine. He was assessed an impairment rating of 18% and found to be at maximum medical improvement on April 7, 1998.
- D. The claimant did not elect to commute any portion of his impairment income benefits.
- E. The 14th quarter of SIBs began on July 17, 2002, and ended on October 15, 2002.
- F. The qualifying period for the 14th quarter began on April 4, 2002, and ended on July 3, 2002.

We also reform the hearing officer's decision to delete references to Liberty Mutual Fire Insurance Company as the insurance carrier and substitute (self-insured) as the insurance carrier.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period. The hearing officer

found that the claimant did make a good faith effort to “seek” employment during the qualifying period. Rule 130.102(d) 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: (5) has provided sufficient documentation as described in subsection (e) of this section to show that he or she has made a good faith effort to obtain employment. Rule 130.102(e) provides in part 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. Subsection (e) then lists information to be considered in determining whether an employee has made a good faith effort to obtain employment.

In the instant case, the claimant’s Application for SIBs (TWCC-52) for the 14th quarter reflects that during the qualifying period he contacted 141 employers in an attempt to obtain employment and that he documented that he looked for work every week of the qualifying period. With regard to the last two weeks of the qualifying period, which is the period the self-insured contends the claimant did not document a job search, the documented job search for those two weeks are listed on pages 012 and 013 of Claimant’s Exhibit No. 1 (the TWCC-52 with attachments). Although the hearing officer did not make findings of fact with regard to whether the claimant looked for employment commensurate with his ability to work every week of the qualifying period and whether he documented his job search efforts, the hearing officer did state in the Statement of the Evidence portion of her decision that the claimant made a documented job search every week of the qualifying period and that he sought employment commensurate with his work abilities. We conclude that the hearing officer’s decision that the claimant is entitled to SIBs for the 14th quarter is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.175 (Tex. 1986).

The hearing officer's decision and order, as reformed herein, is affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**GENERAL ATTORNEY  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge