

APPEAL NO. 022991
FILED DECEMBER 16, 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 November 12, 2002. The hearing officer determined that the appellant/cross-respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the third quarter, but that he is entitled to SIBs for the fourth quarter. The claimant appeals the determination of nonentitlement to SIBs for the third quarter, and the respondent/cross-appellant (carrier) appeals the determination of entitlement to SIBs for the fourth quarter. The carrier also responded to the claimant's appeal, urging affirmance of the determination of nonentitlement to SIBs for the third quarter.

DECISION

Affirmed.

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 qualifying period for the third quarter was from January 28 through April 28, 2002, with the third quarter running from May 12 through August 10, 2002. The claimant contended that he had no ability to work during the qualifying period for the third quarter, and that he was entitled to third quarter SIBs pursuant to Rule 130.102(d)(4). It is undisputed that the claimant did not work or look for work during the third quarter qualifying period. The qualifying period for the fourth quarter was from April 29 through July 28, 2002, with the fourth quarter running from August 11 through November 9, 2002. The claimant contended that he made a good faith effort to find employment commensurate with his ability to work during the qualifying period for the fourth quarter, and that he was entitled to fourth quarter SIBs pursuant to Rule 130.102(d)(5) and (e).

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order that the claimant did not meet the requirements of Rule 130.102(d)(4) during the qualifying period for the third quarter, and that he did meet the requirements of Rule 130.102(d)(5) and (e) during the qualifying period for the fourth quarter is supported by sufficient evidence to be affirmed. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **POTOMAC INSURANCE COMPANY OF ILLINOIS** and the name and address of its registered agent for service of process is

**C. J. FIELDS
5901 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75206.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge