

APPEAL NO. 022992
FILED JANUARY 2, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 6, 2002. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 11th quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is 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 SIBs criteria in issue are whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the 11th quarter and whether he earned less than 80% of his average weekly wage as a direct result of the impairment from the compensable injury during the qualifying period for the 11th quarter. The hearing officer found that during the qualifying period for the 11th quarter the claimant did not make a good faith effort to obtain employment commensurate with his ability to work and that his unemployment was not a direct result of his impairment. Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision 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.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACE USA/OR** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Roy L. Warren
Appeals Judge