

APPEAL NO. 023160  
FILED JANUARY 27, 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 was held on November 25, 2002. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 7th and 8th quarters. In her appeal, the claimant argues that the hearing officer's determinations that she did not make a good faith effort to look for work commensurate with her ability to work and that she is not entitled to SIBs for the 7th and 8th quarters are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that she reached maximum medical improvement on August 18, 1998, with an impairment rating of 41%; that she did not commute her impairment income benefits; that the 7th quarter of SIBs ran from June 26 to September 24, 2002; that the 8th quarter of SIBs ran from September 25 to December 24, 2002; that during the qualifying period for the 7th and 8th quarters the claimant earned no wages; and that during the qualifying period for the 7th quarter the claimant did not seek employment. The claimant sought SIBs in both quarters on a no-ability-to-work theory. Alternatively, the claimant argued that she made a good faith job search in the qualifying period for the 8th quarter. The hearing officer determined that the claimant did not qualify for SIBs under either theory.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement in the qualifying periods for the 7th and 8th quarters of SIBs by demonstrating that she had no ability to work during the relevant qualifying periods. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)); thus, she further determined that the claimant did not prove that she had no ability to work during the qualifying periods for the 7th and 8th quarters. Nothing in our review of the record reveals that those determinations are so against the great weight as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the good faith determinations, or the determination that the claimant is not entitled to SIBs for the 7th and 8th quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

With regard to the 8th quarter, the claimant pursued an alternate theory of recovery, namely she argued that she made a good faith effort to look for work in the qualifying period for the 8th quarter in accordance with Rule 130.102(e). However, as

the hearing officer noted, the claimant did not document a job search in each week of the qualifying period on her Application for Supplemental Income Benefits (TWCC-52). Accordingly, we find no merit in the assertion that the hearing officer erred in determining that the claimant did not satisfy the good faith requirement under Rule 130.120(e), which specifically requires that “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.”

The hearing officer’s decision and order are affirmed.

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

**SUPERINTENDENT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Michael B. McShane  
Appeals Panel  
Manager/Judge