

APPEAL NO. 030160
FILED MARCH 4, 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 December 17, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 11th quarter and that she is entitled to SIBs for the 12th quarter. In her appeal, the claimant argues that the hearing officer's determinations that she did not satisfy the good faith requirement pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)) by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) in the qualifying period for the 11th quarter and that she is not entitled to SIBs for that quarter are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the determination that the claimant is entitled to SIBs for the 12th quarter and that determination has, therefore, become final. Section 410.169.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Rule 130.102. The SIBs criterion in issue is whether the claimant satisfied the good faith requirement by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC pursuant to Rule 130.102(d)(2). The evidence in the record and the claimant's testimony reveal that during the spring semester, which is the period of time that corresponds with the qualifying period for the 11th quarter, the claimant received an incomplete in two classes, withdrew from another, and received a failing grade in the fourth. The hearing officer stated that based on this evidence "[i]t cannot be reasonably stated that she successfully completed that semester, nor that she 'satisfactorily participated' in the program." 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 determines what facts the evidence has established. Our review of the record reveals that the hearing officer's determination that the claimant did not satisfy the good faith requirement under Rule 130.102(d)(2) 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 or manifestly unjust. Thus, no sound basis exists for us to reverse the determination that the claimant is not entitled to SIBs for the 11th quarter on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In her appeal, the claimant also challenges the hearing officer's determination that the claimant did not satisfy the good faith requirement by looking for work each week during the qualifying period pursuant to Rule 130.102(e). In her testimony the claimant acknowledged that there were weeks in the qualifying period that she did not

conduct a job search. In light of that testimony, we find no merit in the assertion that the hearing officer erred in determining that the claimant did not satisfy the good faith requirement by conducting a weekly job search.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY OF KANSAS, INCORPORATED** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Terri Kay Oliver
Appeals Judge