

APPEAL NO. 030261  
FILED MARCH 17, 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 January 15, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first quarter because he failed to establish that his underemployment during the relevant qualifying period was a direct result of his impairment from the compensable injury, and that had the claimant been entitled to SIBs for the first quarter, his monthly benefit amount would have been \$621.51. The claimant appealed the hearing officer's direct determination and the respondent (carrier) responded, urging affirmance. The hearing officer's determination regarding the benefit amount is unappealed and has become final. Section 410.169.

DECISION

Affirmed.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) provides that an injured employee who has an impairment rating of 15% or greater and who has not commuted any impairment income benefits is entitled to SIBs if, during the qualifying period, the claimant has earned less than 80% of the employee's average weekly wage (AWW) as a direct result of the impairment from the compensable injury and has made a good faith effort to obtain employment commensurate with the employee's ability to work. The claimant asserts that he has in fact earned less than 80% of his AWW as a direct result of the impairment from the compensable injury.

Whether or not the claimant met his burden of establishing direct result was a factual determination of the hearing officer. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. Nothing in our review of the record indicates that the hearing officer's direct result and SIBs determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order is affirmed.

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

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 78701.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge