

APPEAL NO. 030354
FILED APRIL 3, 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 January 22, 2003. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters. The claimant appeals, contending that the ombudsman refused to assist him with his appeal and that the hearing officer's determinations that the claimant is not entitled to SIBs for the 9th and 10th quarters are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

First we address the claimant's complaint that he did not receive adequate assistance from the ombudsman to file his appeal. The claimant states that, the ombudsman "does not want to help me to fill in this application because they have already prohibited her from helping me." In Texas Workers' Compensation Commission Appeal No. 94223, decided April 7, 1994, the Appeals Panel found no merit in the complaint that the ombudsman had not assisted the claimant to the best of her ability. An ombudsman does not represent any party and is available to a litigant only to assist in the litigant's own presentation of his or her case. Appeal No. 94223, *supra*. It is the claimant's responsibility to file the appeal. We cannot consider allegations regarding assistance that involve the ombudsman's actions outside the CCH. See Texas Workers' Compensation Commission Appeal No. 951277, decided September 13, 1995. The Appeals Panel has considered the claimant's assertions regarding the ombudsman and we determine that there is no reversible error.

The parties stipulated that the claimant sustained a compensable injury on _____; that he reached maximum medical improvement with an impairment rating of 16%; that he did not commute his impairment income benefits; that the qualifying period for the 9th quarter of SIBs ran from March 30 to June 28, 2002; and that the qualifying period for the 10th quarter of SIBs ran from June 29 to September 27, 2002.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement in the qualifying period for the 9th and 10th quarters of SIBs. The claimant failed to demonstrate that he documented a job search during each week of the qualifying periods. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d) (Rule 130.102(d)) indicates that an injured employee has made a good faith effort to obtain employment if the injured employee documents a job search as described in subsection (e). Subsection (e) indicates that the injured employee shall look for work every week of

the qualifying period and document his or her search efforts. The claimant failed to document a job search effort during each week of the qualifying periods.

The claimant also contends that the hearing officer erred in his determination that the claimant did not satisfactorily participate in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying periods. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Rule 130.102(d)(2) to establish that the claimant was satisfactorily participating in a TRC-sponsored program, because as stated by the hearing officer, "the Claimant contacted the [TRC] not more than three times concerning his vocational rehabilitation program. That [theTRC] inactivated him twice during the qualifying periods for his lack of participation in the program." Nothing in our review of the record reveals that the challenged determination is so against the great weight as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the determination that the claimant is not entitled to SIBs for the 9th and 10th quarters on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

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

**CT CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Roy L. Warren
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge