

APPEAL NO. 030400
FILED MARCH 18, 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 February 3, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth, sixth, seventh, or eighth quarters. The claimant appealed, arguing that the great weight of the evidence is contrary to the findings of the hearing officer and that the hearing officer imposed additional requirements on the claimant that are not required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)). The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that the date of maximum medical improvement was October 8, 1999, with an impairment rating of 22%; that the claimant has not elected to commute any portion of her impairment income benefits; that the qualifying periods for the fifth through eighth quarters were from September 30, 2001, through September 28, 2002; and that the fifth through eighth quarters were from January 12, 2002, through January 10, 2003.

The hearing officer did not err in finding that the claimant was not entitled to SIBs for the fifth through the eighth quarters. The evidence did not reflect that the claimant looked for work in every week of the qualifying periods as required by Rule 130.102(e). The claimant contended that she met the good faith requirement to obtain employment commensurate with her ability to work by being enrolled in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying periods. The claimant testified that she attended English as a second language course throughout the qualifying periods and that the courses were paid for by the TRC. The claimant argues that the hearing officer imposed additional conditions on the claimant that are not required by Rule 130.102(d)(2).

Rule 130.101(8) states that a full-time vocational rehabilitation program is:

Any program, provided by the [TRC] or a private provider of vocational rehabilitation services that is included in the Registry of Private Providers of Vocational Rehabilitation Services, for the provision of vocational rehabilitation services designed to assist the injured employee to return to work that includes a vocational rehabilitation plan. A vocational rehabilitation plan includes, at a minimum, an employment goal, any

intermediate goals, a description of the services to be provided or arranged, the start and end dates of the described services, and the injured employee's responsibilities for the successful completion of the plan.

As noted by the hearing officer, there was no evidence of any employment goal, intermediate goals, description of services, or a description of the injured employee's responsibilities for the successful completion of the plan. The Appeals Panel has held that there must be evidence of a plan, as well as compliance with it, for a determination to be made that the claimant has been "enrolled in, and satisfactorily participated in" such a program. Texas Worker's Compensation Commission Appeal No. 011336, decided July 25, 2001. In the absence of such evidence, we cannot find that the hearing officer's determination that the claimant was not enrolled in nor satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC to be in error.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION** for Legion Insurance Company, an impaired carrier and the name and address of its registered agent for service of process is

**MARVIN KELLEY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Roy L. Warren
Appeals Judge