

APPEAL NO. 030875
FILED MAY 30, 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 March 24, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters, and that the claimant's compensable injury of _____, extends to and includes depression. The claimant appealed the hearing officer's determinations that she is not entitled to SIBs for the fifth and sixth quarters. No response was received from the respondent (self-insured). There is no appeal of the hearing officer's determination that the compensable injury extends to and includes depression.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying periods for the fifth and sixth quarters. The hearing officer found that during the relevant qualifying periods, the claimant had some ability to work, the claimant had not returned to work in a position relatively equal to her ability to work, and the claimant did not conduct and document a job search effort every week. The hearing officer further found that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work during the relevant qualifying periods. The hearing officer concluded that the claimant is not entitled to SIBs for the fifth and sixth quarters. 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 resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision that the claimant is not entitled to SIBs for the fifth and sixth quarters 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 and unjust. 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 **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

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

Robert W. Potts
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge