

APPEAL NO. 031528
FILED AUGUST 1, 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 May 15, 2003. With respect to the issues before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fourth, fifth, and sixth quarters. In its appeal, the appellant (carrier) asserts error in the hearing officer's determination that the claimant's underemployment in the relevant qualifying periods was a direct result of the impairment from her compensable injury. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(c) (Rule 130.102(c)) provides that an injured employee has earned less than 80% of the employee's average weekly wage as a direct result of the impairment from the compensable injury if the impairment from the compensable injury is a cause of the reduced earnings. The carrier cites Texas Workers' Compensation Commission Appeal No. 992605, decided January 6, 2000, for the proposition that when other reasons unrelated to the injury are the cause for an employee's underemployment, the employee's underemployment is not the direct result of the compensable injury. We have held that a claimant need not establish that his or her impairment is the only cause of his or her unemployment or underemployment in order to satisfy the direct result criterion for SIBs; rather, a claimant need only establish that his or her impairment is a cause of the unemployment or underemployment. Appeal No. 992605. The question of whether the claimant has been unemployed or underemployed as a direct result of the impairment from the compensable injury is generally a fact issue for the hearing officer to determine. Texas Workers' Compensation Commission Appeal No. 950819, decided July 6, 1995. In this instance, the hearing officer was persuaded that the claimant's underemployment was a direct result of her impairment. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the challenged determinations, or the determinations that the claimant is entitled to SIBs for the fourth, fifth, and sixth quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986)

The hearing officer's decision and order are affirmed.

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

**RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge