

APPEAL NO. 031658  
FILED AUGUST 13, 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 June 2, 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 quarter but not for the third quarter. The appellant (carrier) appealed the determination that the claimant was entitled to SIBs for the fourth quarter as being against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance. The hearing officer's determination that the claimant is not entitled to SIBs for the third quarter was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was entitled to SIBs for the fourth quarter, which ran from March 30 to June 28, 2003. The parties stipulated that on \_\_\_\_\_, the claimant sustained a compensable injury, that he reached maximum medical improvement on August 24, 2001, with an impairment rating of 15%, and that he did not commute his impairment income benefits. The hearing officer determined that the claimant made a good faith effort to look for work in the relevant qualifying period in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)). That issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The claimant's Application for [SIBs] (TWCC-52) for the fourth quarter showed that he looked for work during each week of the qualifying period, which ran from December 16, 2002, to March 16, 2003. In challenging the hearing officer's good faith determination, the carrier emphasizes the same factors it emphasized at the hearing in arguing that the claimant's search for employment was not undertaken in good faith in a genuine effort to return to work. The significance of those factors was a matter for the hearing officer, as the finder of fact, to determine. The hearing officer was acting within her province as the fact finder in rejecting the carrier's arguments and in determining that the claimant made a good faith effort to look for work in the qualifying period. Nothing in our review of the record demonstrates that the hearing officer's good faith determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). We find no merit in the carrier's challenge to the hearing officer's determination that the claimant's underemployment in the qualifying period for the fourth quarter is a direct result of his impairment from the compensable injury. We have long stated that a direct result determination is sufficiently supported by the evidence if the injured employee sustained a serious injury with lasting effects and can no longer reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation

Commission Appeal No. 960028, decided February 15, 1996. In this instance, there is evidence from which the hearing officer could determine that the claimant's injury resulted in permanent impairment and that, as a result thereof, the claimant can no longer reasonably work in the same position he had at the time of his injury. Consequently, there is sufficient evidence to affirm the hearing officer's determination that the claimant's underemployment in the qualifying period for the fourth quarter was a direct result of his impairment. Having affirmed the hearing officer's good faith and direct result determinations, we likewise affirm the determination that the claimant is entitled to SIBs for the fourth quarter.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**C T CORPORATION  
350 ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Veronica Lopez-Ruberto  
Appeals Judge

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Robert W. Potts  
Appeals Judge