

APPEAL NO. 032245  
FILED OCTOBER 27, 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 July 30, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 17th quarter. The appellant (carrier) appeals this determination on sufficiency of the evidence grounds. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to 17th quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue was whether the claimant has earned less than 80% of his average weekly wage (AWW) as a direct result of the impairment from the compensable injury and whether he made a good faith job search commensurate with his ability to work. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier asserts that the hearing officer erred by "questioning the claimant . . . as to whether the original calculation of his [AWW] included certain benefits paid by [his] former employer (and in failing to sustain carrier's objection to the hearing officer's question to the claimant on this issue) as such was irrelevant given that the AWW had been agreed upon in a Benefit Dispute Agreement TWCC-24." While it may not have been necessary for the hearing officer to question the claimant concerning a matter which had been resolved through an agreement, our review of the record indicates that such questions did not give rise to harmful error.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

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

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Edward Vilano  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Margaret L. Turner  
Appeals Judge