

APPEAL NO. 032294
FILED OCTOBER 14, 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 August 6, 2003. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter. Appellant (carrier) appealed the determinations regarding SIBs entitlement on sufficiency grounds and claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

The hearing officer could find from the evidence that claimant signed an Individualized Plan for Employment (IPE) during the qualifying period and that he also started classes on the "first of February," as claimant testified. The hearing officer resolved any conflicts in the evidence regarding when claimant started school. The qualifying period in this case was from November 2, 2002, through February 5, 2003. Based on the evidence, the hearing officer could determine that claimant has been enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying period. Because claimant was participating in the TRC program, he was not required to look for work. See Texas Workers' Compensation Commission Appeal No. 002010, decided September 28, 2000.

We note that carrier cited Texas Workers' Compensation Commission Appeal No. 031361, decided July 9, 2003, in support of its contention that because claimant did not begin classes until after the qualifying period, he was not satisfactorily participating in a TRC-sponsored program. We have already noted that the hearing officer could find from the evidence that claimant did start school during the qualifying period. Further, we note that the key consideration is not whether claimant actually started school during the qualifying period, but whether he was participating in the TRC program during the qualifying period by performing the requirements set forth in the IPE. See Texas Workers' Compensation Commission Appeal No. 023229, decided February 4, 2003.

The hearing officer's determination that claimant has a serious injury with lasting effects and that he is not able to return to his prior employment is supported by the report of Dr. L and claimant's testimony. We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not 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, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY A. LANGLEY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75231.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

CONCURRING OPINION:

I concur in the decision above. I write separately to make clear that Appeal No. 031361 does not stand for the proposition put forth by the carrier but is limited to the specific facts of that case which were not fully set out in our decision or in the hearing officer's decision and order.

Edward Vilano
Appeals Judge