

APPEAL NO. 032419
FILED NOVEMBER 5, 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 26, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fourth quarter.

The appellant (carrier) appealed the good faith job search determination, citing Texas Workers' Compensation Commission rules, and asserting that the claimant's job contacts were not made in good faith. The file does not contain a response from the claimant.

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 issue is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the third quarter. The direct result criterion of Rule 130.102(b)(1) has not been appealed. The hearing officer considered the evidence, including the claimant's 61 documented job contacts during the qualifying period, and found that the claimant had made a good faith effort to obtain employment commensurate with his ability to work during the fourth quarter qualifying period.

The hearing officer, in his Statement of the Evidence, discusses the facts and clearly considered the arguments that the carrier makes on appeal. In essence, the carrier is asking the Appeals Panel to substitute its judgment for that of the hearing officer, something which we have repeatedly said we would not do. Nor are we inclined to create some other criteria, not set out in Rule 130.102(d) and (e), in defining the required good faith effort to obtain employment commensurate with the employee's ability to work. See Rodriguez v. Service Lloyds Insurance Company, 997 S.W.2d 548 (Tex. 1999). We also note that we have reviewed this case for prior SIBs quarters on substantially similar evidence. Texas Workers' Compensation Commission Appeal No. 031426, decided July 21, 2003, and Texas Workers' Compensation Commission Appeal No. 031933, decided August 28, 2003.

We have reviewed the complained-of determinations and conclude that the hearing officer's determinations 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.

The true corporate name of the insurance carrier is **LUMBERMENS UNDERWRITING ALLIANCE** and the name and address of its registered agent for service of process is

**DEBRA S. MATHEWS-BUDET
12200 FORD ROAD, SUITE 344
DALLAS, TEXAS 75234.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge