

APPEAL NO. 032504
FILED OCTOBER 30, 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 25, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third quarter. The claimant appeals this determination. The respondent (carrier) urges affirmance of the hearing officer's decision

DECISION

Affirmed.

Section 408.142 provides that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with her ability to work. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)), applicable in this case, provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee 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. Whether the claimant satisfied the good faith requirement as provided for in Rule 130.102(d)(2) was a factual question for the hearing officer to resolve. The hearing officer noted that the claimant did not complete an Individualized Plan for Employment (IPE) with the TRC until two weeks after the qualifying period in question had ended, and concluded that he was not enrolled in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the TRC during the third quarter qualifying period. In Texas Workers' Compensation Appeal No. 030460, decided March 28, 2003, which the claimant cites in his appeal, the IPE was actually completed within the qualifying period in question. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order is affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge