

APPEAL NO. 032593
FILED NOVEMBER 17, 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 September 2, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the seventh quarter.

The appellant (carrier) appealed the good faith job search determination, asserting that the claimant's job contacts were not made in good faith; that the claimant's inability to obtain or retain employment was due to an intervening injury and not a direct cause of her impairment or compensable work injury of 1998; and that the great weight and preponderance of the evidence was against the hearing officer's determinations. There is no response in the file 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 was whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the seventh quarter and whether the direct result criterion of Rule 130.102(b)(1) has been met. The carrier has appealed the good faith finding, asserting that the claimant's inability to obtain employment commensurate with her ability to work was the result of injuries caused by an intervening motor vehicle. The hearing officer found that the claimant's unemployment during the filing period was a direct result of her impairment from the compensable injury. The 1989 Act requires that the claimant establish that the unemployment was a direct result of the impairment, not that the impairment was the only cause of the unemployment. Texas Workers' Compensation Commission Appeal No. 961981, decided November 18, 1996. Although it may be readily apparent that these other conditions play some role in the claimant's unemployment, the determination that the unemployment was a direct result of the impairment from the compensable injury is not without a sufficient evidentiary basis in the record. Evidence of a serious injury with lasting effects and of the inability to return to the previous employment is sufficient to support a finding of direct result. See Texas Workers' Compensation Commission Appeal No. 960028, decided February 15, 1996. Whether the claimant satisfied the direct result requirement for SIBs entitlement was a factual question for the hearing officer to resolve. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Nothing in our review of the record indicates that the hearing officer's direct result findings are 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).

The carrier also appealed the good faith job search determination. With regard to the good faith criterion, a good faith effort may be established by compliance with Rule 130.102(e), which provides that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. That subsection then lists information to be considered in determining whether a good faith effort has been made. Good faith effort is a factual determination for the hearing officer to resolve. The hearing officer considered the evidence, including the claimant's 50 documented job contacts during the qualifying period, and found that the claimant had made a good faith effort to obtain employment commensurate with her ability to work during the seventh quarter qualifying period. We decline to substitute our opinion for that of the hearing officer's and conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, supra.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE** and the name and address of its registered agent for service of process is

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge