

APPEAL NO. 032664
FILED DECEMBER 1, 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 18, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the second quarter. The appellant (carrier) appeals essentially on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to second 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 is whether the claimant's unemployment was a direct result of the impairment from the compensable injury and whether the claimant was enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying period. We have said that a claimant's unemployment must be a direct result of the impairment from the compensable injury, but the impairment need not be the *sole cause* of the unemployment. Texas Workers' Compensation Commission Appeal No. 960721, decided May 24, 1996. In Texas Workers' Compensation Commission Appeal No. 010952-s, decided June 20, 2001, we held that a claimant's testimony may support a determination that the claimant satisfied the good faith job search requirement under Rule 130.102(d)(2) for full-time participation in a vocational rehabilitation program sponsored by the TRC, and documentary evidence was not absolutely required. 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 hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

DISSENTING OPINION:

Basically, I respectfully dissent in this case for the same reasons articulated in my dissent in Appeal No. 010952-s. As I explained in Appeal No. 010952-s, I agreed that the better practice would be for the claimant to provide documentary evidence from the TRC. The majority in Appeal No. 010952-s held this evidence could be provided by the claimant's testimony. In this case, that testimony should have been that the claimant had a vocational rehabilitation plan and that plan included the items required "as a minimum" in Rule 130.101(8) quoted at some length in Appeal No. 010952-s. The claimant's testimony in this case does not reference any of the items mentioned in Rule 130.101(8), nor does the hearing officer reference or even mention Rule 130.101(8). Further, unlike Appeal No. 010952-s, which did have an individualized plan for employment (IPE) in evidence (albeit outdated), this case does not even have an outdated IPE. I would have reversed this case and rendered a decision that the claimant had not proved his sponsorship by the TRC with either documentary evidence or testimonial evidence.

Thomas A. Knapp
Appeals Judge