

APPEAL NO. 032962
FILED JANUARY 7, 2004

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 October 15, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 11th quarter. The appellant (carrier) appeals, contending that the claimant failed to meet the good faith and direct result criteria for SIBs entitlement. No response was received from the claimant.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criteria in issue are whether the claimant earned less than 80% of her average weekly wage (AWW) as a direct result of the impairment from her compensable injury during the qualifying period for the 11th quarter and whether she made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the 11th quarter. The hearing officer resolved the conflicting evidence by deciding that the claimant earned less than 80% of her AWW during the qualifying period for the 11th quarter as a direct result of her impairment from the compensable injury (see Rule 130.102(c)) and that the claimant made a good faith effort to obtain employment commensurate with her ability to work by returning to work in a position relatively equal to her ability to work (see Rule 130.102(d)(1)). The hearing officer concluded that the claimant is entitled to SIBs for the 11th quarter. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is not 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 (Tex. 1986).

We affirm the hearing officer's decision and order.

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

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

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge