

APPEAL NO. 033017  
FILED DECEMBER 31, 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 (CCH) was held on October 21, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 14th quarter. The claimant appealed, contending that she looked for work in good faith and that her doctor has not released her to return to work. The respondent (carrier) asserts that sufficient evidence supports the hearing officer's decision.

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 her ability to work during the qualifying period for the 14th quarter. The parties orally stipulated at the CCH that during the qualifying period for the 14th quarter the claimant had some ability to work and that she did not work or earn any wages. Section 410.166 provides in pertinent part that an oral stipulation of the parties that is preserved in the record is final and binding. Consequently, to the extent that the claimant disagrees with Finding of Fact No. 1.J. that she had some ability to work during the qualifying period for the 14th quarter, such disagreement is not a basis for reversal of the hearing officer's decision because that finding of fact is based on a stipulation of the parties.

Conflicting evidence was presented at the CCH regarding whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the 14th 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. The hearing officer found that when considering the factors enumerated in Rule 130.102(e), it is clear that the claimant failed to establish that she made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the 14th quarter, and concluded that the claimant is not entitled to SIBs for the 14th quarter. 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 **(a certified self-insured)** 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.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Chris Cowan  
Appeals Judge