

APPEAL NO. 033265  
FILED FEBRUARY 5, 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 November 4, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the seventh quarter. The appellant (carrier) appeals, contending that the claimant was not participating in a Texas Rehabilitation Commission (TRC) program during the qualifying period and that prior Appeals Panel decisions misinterpret the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)). The claimant asserts that sufficient evidence supports the hearing officer's decision and that she met the requirements of Rule 130.102(d)(2).

DECISION

Affirmed as reformed herein.

We reform Finding of Fact No. 1.F. to reflect that the parties stipulated that the qualifying period for the seventh quarter was from April 18 to July 17, 2003 (not July 12, 2003).

Eligibility requirements for SIBs entitlement are set forth in Section 408.142(a) and Rule 130.102. The SIBs criterion in dispute is 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. Rule 130.102(d)(2) 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 TRC during the qualifying period. In Texas Workers' Compensation Commission Appeal No. 020713, decided April 17, 2002, the Appeals Panel noted that the good faith requirement per Rule 130.102(d)(2) is met if at any time during the qualifying period for the quarter in dispute the claimant is enrolled in, and satisfactorily participating in, a TRC-sponsored program. *See also* Texas Workers' Compensation Commission Appeal No. 001536, decided August 9, 2000, Texas Workers' Compensation Commission Appeal No. 020192, decided February 28, 2002.

In evidence is a TRC Vocational Rehabilitation Services Individualized Plan for Employment (IPE) for the claimant dated December 13, 2001, which contains an employment goal of Customer Relations Specialist and the steps necessary to achieve the employment goal, including "Training-Obtain certifications/license." The IPE is for the period of December 13, 2001, through January 1, 2003; however, the claimant said that the TRC extended the length of the IPE so that she could attend additional classes at the community college to obtain an Office Specialist Certificate (OSC). In evidence is a TRC purchase order to the community college for the purchase of several computer-

related courses for the claimant that has an issue date of March 26, 2003, and an end date of April 30, 2003. The claimant said that her classes at the community college actually ended on April 17, 2003, which was the day before the qualifying period for the seventh quarter started. However, she said that after that date she still had to go to the community college to complete paperwork so that she could receive her OSC. She said that she graduated and received her OSC on April 28, 2003. The claimant's OSC is in evidence and it is dated April 28, 2003. The OSC was awarded to the claimant for satisfactory completion of specified computer-related courses.

The hearing officer found that during the qualifying period for the seventh quarter, the claimant made a good faith effort based on her enrollment and satisfactory participation in her TRC-sponsored program under Rule 130.102(d)(2), and concluded that the claimant is entitled to SIBs for the seventh quarter. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We decline to reconsider our prior Appeals Panel decisions which decide that the good faith requirement of Rule 130.102(d)(2) is met if at any time during the qualifying period for the quarter in dispute, the claimant is enrolled in, and satisfactorily participating in, a TRC-sponsored program. Considering that the IPE specifies that one of the necessary steps is to obtain certifications, and that the claimant obtained her OSC during the qualifying period after completing paperwork she said was needed to get the OSC, we cannot conclude that the hearing officer erred as a matter of law in determining that the claimant met the good faith requirement under Rule 130.102(d)(2). We 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 v. Bain, 709 S.W.2d 175 (Tex. 1986).

As reformed herein, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

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

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Robert W. Potts  
Appeals Judge

CONCUR:

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Margaret L. Turner  
Appeals Judge

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Edward Vilano  
Appeals Judge