

APPEAL NO. 033298
FILED FEBRUARY 13, 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 13, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appealed, arguing that the evidence established that he attended classes during the relevant qualifying period. The respondent (carrier) responded, urging affirmance.

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 satisfied the good faith requirement by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) pursuant to Rule 130.102(d)(2). It was undisputed that the claimant did not search for work in each week of the qualifying period. There was conflicting evidence in the record concerning whether or not the claimant satisfactorily participated in a TRC program. Rule 130.101(8) defines the phrase "full time vocational rehabilitation program." There was correspondence from the TRC dated March 10, 2003, which stated that the claimant had been participating with the TRC since July 8, 2002, and acknowledged that the claimant was already taking an English as a second language course, as well as courses to obtain a general equivalency degree. However, the correspondence additionally stated that this comparable benefit is part of a pre-requisite determining eligibility for TRC services. A computer screen printout was also in evidence showing services for an individualized plan for employment, but the services provided are identified as beginning at a time after the end of the qualifying period and the claimant is not identified as the person for whom the plan was developed.

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 determines what facts the evidence has established. Our review of the record reveals that the hearing officer's determination that the claimant did not satisfy the good faith requirement under Rule 130.102(d)(2) 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 or manifestly unjust. Thus, no sound basis exists for us to reverse the determination that the claimant is not entitled to SIBs for the fourth quarter on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

**LEX SMART
ONE LINCOLN CENTRE
5400 LBJ FREEWAY
DALLAS, TEXAS 75240.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge