

APPEAL NO. 033308  
FILED FEBRUARY 17, 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 25, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fifth quarter. The appellant (carrier) appeals this determination, asserting that the claimant did not make a good faith job search during the qualifying period and that his unemployment is not a direct result of his impairment from the compensable injury. The claimant did not file a response.

DECISION

Affirmed.

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. The claimant asserted that he satisfied the good faith criteria by enrolling in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying period, pursuant to Rule 130.102(d)(2). A full-time vocational rehabilitation program is defined, in pertinent part, as *any* program provided by the TRC for the provision of vocational rehabilitation services designed to assist the injured employee to return to work that includes a vocational rehabilitation plan. Rule 130.101(8); and see Texas Workers' Compensation Commission Appeal No. 000001, decided February 16, 2000. A vocational rehabilitation plan includes, at a minimum, an employment goal, any intermediate goals, a description of the services to be provided or arranged, the start and end dates of the described services, and the injured employee's responsibilities for the successful completion of the plan. Rule 130.101(8). We have said that the key consideration is whether the claimant was performing the requirements set forth by the TRC in the Individualized Plan for Employment, not whether the claimant was actually enrolled in classes during the qualifying period. See Texas Workers' Compensation Commission Appeal No. 023229, decided February 4, 2003. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co. of Newark New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's good faith 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). Having affirmed the hearing officer's good faith determination, the claimant was not additionally required to document a job search effort in each week of the qualifying period. Texas Workers' Compensation Commission Appeal No. 000321, decided March 29, 2000.

With regard to the "direct result" criterion, we have said that "direct result" may be established by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. The hearing officer considered the evidence and found that the claimant was unable to perform the heavy lifting required in his former position, due to the effects of his compensable injury. The hearing officer's "direct result" determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The hearing officer's decision and order is affirmed.

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

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

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Edward Vilano  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge