

APPEAL NO. 040302
FILED MARCH 15, 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 January 13, 2004. The hearing officer decided that the respondent (claimant herein) is entitled to supplemental income benefits (SIBs) for the second quarter. The appellant (self-insured herein) files a request for review in which it argues that the hearing officer's determination is factually and legally incorrect. The claimant responds, urging affirmance.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

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 in this case 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). There was conflicting evidence in the record concerning whether or not the claimant satisfactorily participated in a TRC program. 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 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 entitled to SIBs for the second quarter on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). See also Texas Workers' Compensation Commission Appeal No. 030784, decided May 8, 2003.

Finally, the self-insured asserts that because the claimant's treating doctor released her to work without restrictions on September 19, 2002, the claimant is not entitled to TRC services and the claimant is not entitled to SIBs as a matter of law. We do not agree. The claimant testified, and there is evidence in the record to support that testimony, that the claimant is unable to return to her preinjury employment due to her compensable injury, and that she still has physical restrictions. Additionally, the release relied upon by the self-insured was issued prior to the Texas Workers' Compensation Commission's determination that the claimant's compensable injury extends to and includes a psychological injury. We perceive no legal error.

The decision and order of the hearing officer are affirmed.

The self-insured represents that the true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
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For service by mail the address is:

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Gary L. Kilgore
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge