

APPEAL NO. 040869  
FILED MAY 24, 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 March 24, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth and seventh quarters. The appellant (carrier) appealed, asserting that the hearing officer erred in setting out the stipulations, and further asserting that the claimant either met the direct result requirement or the good faith job search requirement, but not both. The carrier asserts that the claimant is not entitled to SIBs for the sixth and seventh quarters. The claimant responded, urging affirmance.

DECISION

Affirmed.

We note that on appeal, the carrier asserts that the hearing officer wrongfully stated that the parties stipulated that the claimant's unemployment was a direct result of his impairment, and that the claimant made a good faith job search. Based upon our review of the record, including the announced stipulations, evidence and testimony presented, and arguments of counsel, direct result and good faith job search were clearly in dispute. Therefore, we find that the hearing officer's statements that the claimant was unemployed as a direct result of his impairment, and that the claimant attempted in good faith to obtain employment commensurate with his ability to work are in fact findings of fact made by the hearing officer after consideration of the evidence presented.

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 hearing officer did not err in determining that the claimant is entitled to sixth and seventh quarter SIBs. At issue is whether the claimant made a good faith effort to seek employment commensurate with his ability to work and whether his unemployment was a direct result of the impairment for the compensable injury. These were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS UNDERWRITING ALLIANCE** and the name and address of its registered agent for service of process is

**DEBRA S. MATHEWS-BUDET  
12200 FORD ROAD, SUITE 344  
DALLAS, TEXAS 75234.**

---

Daniel R. Barry  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Veronica L. Ruberto  
Appeals Judge