

APPEAL NO. 040919  
FILED JUNE 4, 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 April 6, 2004. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first quarter. The claimant appealed the determination of nonentitlement, arguing that the Texas Workers' Compensation Commission (Commission) defined the week for the claimant in the Application for [SIBs] (TWCC-52) and the claimant relied on that definition in determining the weeks she looked for work. The respondent (carrier) responded, urging affirmance. The carrier contends that the TWCC-52 makes clear the claimant's obligations to seek employment during each week of the qualifying period and that the hearing officer was free to question the claimant's credibility when she testified that she relied on the information in the TWCC-52 to her detriment.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the first quarter. 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 made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the first quarter. The hearing officer found that the claimant did not satisfy the requirement of Rule 130.102(e) because she did not look for work commensurate with her ability to work in every week of the qualifying period.

The parties stipulated that the qualifying period was from September 10 through December 9, 2003. The TWCC-52 in evidence reflects the same dates were provided for the qualifying period. However, the claimant argues that the ending periods for the 13 weeks of the qualifying periods were identified differently and based on the information provided in the TWCC-52 she looked for work in each week of the qualifying period.

The record reflects that the hearing officer properly identified the 13 weeks of the qualifying period, noting that the "first day of the qualifying period began on [September 10, 2003]." Thus, in this instance, the weeks ran from Wednesday to Tuesday, because the first day of the qualifying period was Wednesday, September 10, 2003, and the last day of the qualifying period was Tuesday, December 9, 2003. Texas Workers' Compensation Commission Appeal No. 002163-s, decided November 1, 2000. With the weeks properly identified, the hearing officer correctly determined that the claimant did not document job search efforts in each week of the qualifying period. The claimant acknowledged at the hearing that she did not document any job contacts between:

October 8 and October 14, November 5 and November 11, or November 26 and December 2, 2003. Accordingly, the hearing officer did not err in determining that the claimant did not satisfy the good faith requirement under Rule 130.102(e), which specifically requires that “an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts.”

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **NATIONAL SURETY CORPORATION** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER  
1999 BRYAN STREET  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Chris Cowan  
Appeals Judge