

APPEAL NO. 040978
FILED JUNE 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 April 7, 2004. With respect to the issue before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 10th and 11th quarters. In its appeal, the appellant (carrier) argues that the hearing officer's determinations that the claimant made a good faith effort to look for work in the qualifying periods for the 10th and 11th quarters, that her unemployment was a direct result of her impairment from the compensable injury, and that she is entitled to SIBs for the 10th and 11th quarters are against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The requirements for entitlement to SIBs are set out in Section 408.142 and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on _____; that she reached maximum medical improvement on June 27, 2000, with an impairment rating of 18%; that she did not commute her impairment income benefits; that the 10th quarter of SIBs ran from October 8, 2003, through January 6, 2004; that the 11th quarter of SIBs ran from January 7 through April 6, 2004; and that during the relevant qualifying periods the claimant earned no wages. With regard to the "good faith" requirement, the hearing officer was satisfied that the claimant proved that she looked for work commensurate with her ability to work during each week of the relevant qualifying period and that she documented those job search efforts. 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 and decides what facts the evidence has established (Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). In contending that the claimant's job search efforts do not rise to the level of a good faith search, the carrier emphasizes the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer to resolve. Nothing in our review of the record reveals 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. Thus, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier also contends that the claimant's unemployment was not a direct result of her impairment. The Appeals Panel has consistently held that an injured employee need not establish that the impairment is the only cause of the unemployment or underemployment, but only that it is a cause. Texas Workers' Compensation Commission Appeal No. 032019, decided September 10, 2003. Our review of the

record demonstrates that the evidence sufficiently supports the hearing officer's determination that the claimant's impairment from the compensable injury is a cause of her employment and nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to compel its reversal on appeal. Having affirmed the hearing officer's good faith and direct result determinations, we likewise affirm the determination that the claimant is entitled to SIBs for the 10th and 11th quarters.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACE USA/OR** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Margaret L. Turner
Appeals Judge