

APPEAL NO. 041251
FILED JUNE 29, 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 20, 2004, with the record closing on May 6, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters. The appellant (self-insured) appealed, arguing that the claimant failed to meet her burden of proof and that the claimant was not employed at a level equal to her work restrictions. The claimant responded, urging affirmance of the disputed determinations of SIBs entitlement.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to fifth and sixth quarter SIBs. 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. At issue was whether the claimant earned less than 80% of her average weekly wage as a direct result of the impairment from the compensable injury and whether she returned to work in a position which is relatively equal to her ability to work thereby meeting the good faith requirement. Rule 130.102(d)(1). 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 Insurance Company 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 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).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge