

APPEAL NO. 041341
FILED JULY 6, 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 (CCH) was held on April 26, 2004. The hearing officer decided that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter, August 26 through November 24, 2003, or the sixth quarter, November 25, 2003, through February 23, 2004. The claimant has appealed and urges that the decision should be reversed on factual sufficiency grounds. The respondent (self-insured) has responded and urges affirmance.

DECISION

Affirmed as reformed.

We reform stipulation j to correct a clerical error. We correct this error by reforming stipulation j to read, "the sixth quarter qualifying period began August 13 and ended November 11, 2003." Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision as reformed and the 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 at issue is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying periods for the fifth and sixth quarters. The claimant asserted that he had no ability to work due to his compensable injury. The hearing officer found that the claimant did not meet the requirements of Rule 130.102(d)(4), that the claimant failed to submit a medical narrative showing how his compensable injury caused an inability to work during the qualifying periods for the fifth and sixth quarters, and that other records showed that the claimant was able to return to work during the qualifying periods for the fifth and sixth quarters. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the CCH (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)). We conclude that the hearing officer's decision 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 and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order is affirmed as reformed herein.

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 OF SCHOOLS
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Gary L. Kilgore
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Chris Cowan
Appeals Judge