

APPEAL NO. 041343
FILED JULY 21, 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 May 7, 2004. The hearing officer decided that the appellant/cross-respondent (claimant) was not entitled to supplemental income benefits (SIBs) for the 10th or 11th quarters. The claimant appeals and argues that the hearing officer's decision is contrary to the evidence. The respondent/cross-appellant (carrier) replies that the decision regarding entitlement to SIBs should be affirmed, but appeals the finding that the claimant's compensable injury is a direct cause of her unemployment.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant has the burden of proving entitlement to SIBs for any quarter claimed. The eligibility requirements for SIBs are set out in Sections 408.142 and 408.143 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(b) (Rule 130.102(b)) and will not be repeated here. The claimant contends that the hearing officer's determinations are against the great weight of the evidence. In its cross-appeal, the carrier contends that the claimant's unemployment during the qualifying periods is not a direct result of the impairment from the compensable injury but rather is due to the lack of a job search and to the claimant's current health problems that are unrelated to the compensable injury. We have said that an injured employee need only establish that the impairment is a cause of his unemployment or underemployment, and that the direct result requirement is "sufficiently supported by evidence that an injured employee sustained a serious injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury." Texas Workers' Compensation Commission Appeal No. 960028, decided February 15, 1996. The carrier further contends that there is no direct result because the designated doctor indicated that the claimant can return to her preinjury job. The evidence was conflicting and the designated doctor's opinion does not have presumptive weight with respect to the claimant's ability to return to her preinjury employment for the quarters in question. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). As an appellate tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they 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, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). Applying the standard of review stated above, we find no legal basis to overturn the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701-2554.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge