

APPEAL NO. 041396
FILED JULY 26, 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 27, 2004. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth and seventh quarters, which ran from February 6 through May 6, 2004, and from May 7 through August 5, 2004, respectively. In her appeal, the claimant essentially argues that the hearing officer's determinations that she did not satisfy the good faith requirement in the qualifying periods for the sixth and seventh quarter of SIBs and that she is not entitled to those benefits are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

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 sixth and seventh quarters. The hearing officer found that the claimant looked for employment in each week of the qualifying periods; however, she further determined that the claimant's efforts were insufficient to prove that she had satisfied the good faith requirement under Rule 130.102(e) by conducting a good faith job search. The hearing officer considered the evidence and found that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work during the relevant qualifying periods. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Rule 130.102(e) contains a number of factors which the reviewing authority may consider in evaluating the job search effort including the number and types of jobs sought, applications or resumes which document the efforts, cooperation with the Texas Rehabilitation Commission, the amount of time spent attempting to find employment, any job search plan by the injured employee, and so on. The hearing officer specifically noted that "Claimant did not conduct a well-structured job search plan and, it appears from the evidence, that the Claimant was going through the motions to qualify for SIBs as opposed to actually re-entering the work force." Nothing in our review of the record reveals that the hearing officer's determination in that regard 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 the determinations that the claimant did not satisfy the good faith requirement pursuant to Rule 130.102(e), or the determinations that the claimant is not entitled to SIBs for the sixth and seventh quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge