

APPEAL NO. 041449
FILED AUGUST 11, 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 26, 2004, with the record closing on May 27, 2004. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the ninth quarter. In his appeal, the claimant asserts error in that determination. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that he received an impairment rating of 15% or more; that he did not commute his impairment income benefits; and that the qualifying period for the ninth quarter of SIBs ran from September 20 through December 19, 2003. The ninth quarter of SIBs was identified as running from January 2 through March 1, 2004.

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 satisfied the good faith requirement pursuant to Rule 130.102(d)(2) by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC). The record contains evidence demonstrating that the claimant was placed on financial aid suspension by his TRC counselor because he did not meet the requirements of the Individualized Plan for Employment in terms of the number of credit hours taken or maintenance of a 2.0 grade point average. That decision was affirmed by the area manager of the TRC, who also responded to a deposition on written questions that the claimant was not satisfactorily participating with his TRC program in the fall semester of 2003. Based upon that evidence, the hearing officer determined that the claimant was not satisfactorily participating in a TRC program and, that he therefore did not meet the requirements of Rule 130.102(d)(2). Our review of the record reveals that the hearing officer's determination 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 or manifestly unjust. Thus, no sound basis exists for us to reverse that determination, or the determination that the claimant is not entitled to SIBs for the ninth quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The balance of the claimant's arguments on appeal relate to his assertion of bad faith on the part of the carrier in handling his workers' compensation claim. Neither the hearing officer, nor the Appeals Panel, has the jurisdiction over a bad faith claim and, as such, those contentions will not be addressed further.

The hearing officer's decision and order 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 STREET, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701-2554.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge