

APPEAL NO. 041458
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 27, 2004. The hearing officer determined that the respondent (claimant herein) was not entitled to supplemental income benefits (SIBs) for the first and second quarters, but was entitled to SIBs for the third quarter. The appellant (carrier herein) files a request for review arguing that we should reverse the decision of the hearing officer that the claimant was entitled to SIBs for the third quarter. The claimant responds that we should affirm the decision of the hearing officer.

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 requirements for entitlement to SIBs are set out in Section 408.142 and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on _____; that the claimant has an impairment rating of 15% or more; and that the qualifying period for the third quarter of SIBs was from September 25 through December 24, 2003. With regard to the required "good faith effort," the hearing officer was satisfied that the claimant proved that he looked for work commensurate with his ability to work during every week of the qualifying period at issue and that he documented his job search efforts. The hearing officer was also persuaded that the claimant's unemployment during the qualifying period for the third quarter of SIBs was a direct result of the impairment from the compensable injury. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). Nothing in our review of the record reveals that the hearing officer's good faith and direct result determinations are 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 those determinations, or the determination that the claimant is entitled to SIBs for the third quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**LEO F. MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251-2237.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge