

APPEAL NO. 041478
FILED JULY 28, 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 June 8, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 15th and 16th quarters, from September 24, 2003, through March 23, 2004. The appellant (self-insured) appealed the hearing officer's SIBs determination and the claimant responded, urging 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 parties stipulated that the qualifying period for the 15th quarter of SIBs was from June 12 through September 10, 2003, and the qualifying period for the 16th quarter of SIBs was from September 11 through December 10, 2003.

At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by enrolling in and satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC as set out in Rule 130.102(d)(2). Rule 130.102(d)(2) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the TRC during the qualifying period.

In evidence is the claimant's Individualized Plan for Employment (IPE) Amendment dated September 25, 2001, that lists the claimant's employment goal as a grant writer. The claimant testified that her IPE was amended in April/May 2003, to reflect an employment goal from grant writing to paralegal studies, and amended again in August 2003, to reflect an employment goal of biblical studies. The claimant testified that her TRC counselor was aware of her changing from a paralegal program to a bible study program and that the TRC continued to sponsor her after she changed programs. The self-insured contends that the claimant did not provide evidence that her IPE was amended and showed that she was satisfactorily participating in the TRC sponsored program.

The question of whether the claimant satisfactorily participated in the full-time TRC program presents a question of fact for the hearing officer to resolve. In Texas Workers' Compensation Commission Appeal No. 010952-s, decided June 20, 2001, we held that a claimant's testimony may support a determination that the claimant satisfied the good faith job search requirement under Rule 130.102(d)(2) for full-time participation in a vocational rehabilitation program sponsored by the TRC, and documentary

evidence was not absolutely required. The hearing officer found that the claimant met the requirement to attempt in good faith to obtain employment commensurate with the claimant's ability to work by being enrolled in, and satisfactorily participating in, a full-time vocational rehabilitation program sponsored by the TRC. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's SIBs determination is not 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).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN D. BOW
STATE OFFICE OF RISK MANAGEMENT
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WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
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Veronica L. Ruberto
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge