

APPEAL NO. 041621
FILED AUGUST 18, 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 June 8, 2004. With respect to the single issue before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the third quarter. In its appeal, the appellant (self-insured) argues that the hearing officer's SIBs determination is against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

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 she received an impairment rating of at least 15%; that she did not commute her impairment income benefits; that the third quarter of SIBs ran from December 26, 2003, through March 25, 2004; that the qualifying period for the third quarter ran from September 13 through December 14, 2003; and that the claimant did not work or seek employment during the qualifying period for the third quarter. The hearing officer determined that the claimant satisfied the good faith requirement in accordance with Rule 130.102(d)(2) by satisfactorily participating in a vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC). In this instance, the record reflects that the claimant signed an Individualized Plan for Employment (IPE) during the qualifying period. Because the claimant was participating in the TRC program, she was not required to look for work. See Texas Workers' Compensation Commission Appeal No. 002010, decided September 28, 2000. To the extent that the self-insured contends that because the claimant did not begin classes until after the qualifying period, she was not satisfactorily participating in a TRC-sponsored program, we note that the key consideration is not whether the claimant actually started school during the qualifying period, but whether she was participating in the TRC program during the qualifying period by performing the requirements set forth in the IPE. See Texas Workers' Compensation Commission Appeal No. 023229, decided February 4, 2003. Finally, the self-insured argues that the claimant could not satisfy the good faith requirement because the statute requires a job search. In essence, the self-insured appears to be arguing that the Texas Workers' Compensation Commission (Commission) exceeded its authority in enacting Rule 130.102(d), which provides methods for satisfying the good faith requirement by means other than a job search. We are without the authority to consider challenges to the validity of Commission rules.

Lastly, we consider the self-insured's challenge to the hearing officer's determination that the claimant's unemployment in the qualifying period for the third quarter is a direct result of her impairment from the compensable injury. We have long

stated that a direct result determination is sufficiently supported by the evidence if the injured employee sustained a serious injury with lasting effects and can no longer 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. In this instance, there is evidence from which the hearing officer could determine that the claimant's injury resulted in permanent impairment and that, as a result thereof, the claimant can no longer reasonably work in the same position she had at the time of her injury. Consequently, there is sufficient evidence to affirm the hearing officer's determination that the claimant's unemployment in the qualifying period for the third quarter was a direct result of her impairment. Having affirmed the hearing officer's good faith and direct result determinations, we likewise affirm the determination that the claimant is entitled to SIBs for the third quarter.

The hearing officer's decision and order are affirmed.

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 BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge