

APPEAL NO. 231626
FILED DECEMBER 13, 2023

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 September 28, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fourth quarter, June 2, 2023, through August 31, 2023; and (2) the claimant has permanently lost entitlement to SIBs pursuant to Section 408.146(c) because he was not entitled to them for four consecutive quarters. The claimant appealed, disputing the ALJ's determinations. The respondent (carrier) responded, urging affirmance of ALJ's determinations.

DECISION

Affirmed as reformed.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), that resulted in an impairment rating of 15% or greater; the claimant has not commuted any portion of the impairment income benefits; the qualifying period for the fourth quarter of SIBs was from February 18, 2023, through May 19, 2023; and the parties agreed the claimant did not qualify for the first, second, and third quarters of SIBs. We note the discussion portion of the decision contains a typographical error in referencing Section 408.146(c) as Section 208.146(c).

The ALJ 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. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.—Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error, unless they are 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); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

The parties stipulated at the CCH that the required number of job applications or work search contacts pursuant to 28 Tex. Admin. Code § 130.102(f) (Rule 130.102(f)) required for the fourth quarter of SIBs is three per week for (city) County, Texas. The claimant's Application for SIBs (DWC-52) for the fourth quarter is in evidence and reflects the claimant's county of residence as (city), which requires three job applications or work search contacts per week pursuant to Rule 130.102(f). However, Finding of Fact No. 1.H. incorrectly identifies the claimant's county of residence as (city)

County, Texas. We reform Finding of Fact No. 1.H. to identify the correct county as (city) County, rather than (city) County.

The ALJ's determinations that the claimant is not entitled to SIBs for the fourth quarter, June 2, 2023, through August 31, 2023, and that the claimant has permanently lost entitlement to SIBs pursuant to Section 408.146(c) because he was not entitled to them for four consecutive quarters are both supported by sufficient evidence and are affirmed.

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

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge