

APPEAL NO. 231871  
FILED FEBRUARY 8, 2024

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 November 14, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the seventh quarter from July 1, 2023, through September 29, 2023. The appellant (carrier) appealed the ALJ's determination regarding entitlement to SIBs for the seventh quarter. The claimant responded, urging affirmance of the appealed determination.

DECISION

Reversed and rendered.

The parties stipulated, in part, that the claimant sustained a compensable injury on (date of injury), which resulted in an impairment rating of 15% or higher; the claimant has not commuted any portion of the impairment income benefits; the qualifying period for the seventh quarter of SIBs was from March 19, 2023, through June 17, 2023; and during the qualifying period for the seventh quarter of SIBs, the minimum number of job contacts per week required for (county), the claimant's county of residence, was three.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142. Section 408.142 as amended by the 79th Legislature, effective September 1, 2005, references the requirements of Section 408.1415 regarding work search compliance standards. Section 408.1415(a) states, in part, that the Texas Department of Insurance, Division of Workers' Compensation (Division) commissioner by rule shall adopt compliance standards for SIBs recipients. 28 Tex. Admin. Code §§ 130.100-130.109 (Rules 130.100-130.109), effective July 1, 2009, govern the eligibility of SIBs.

Rule 130.102(d)(1) provides that an injured employee demonstrates an active effort to obtain employment by meeting at least one or any combination of the following work search requirements each week during the entire qualifying period:

- (A) has returned to work in a position which is commensurate with the injured employee's ability to work;
- (B) has actively participated in a vocational rehabilitation program as defined in [Rule] 130.101 of this title (relating to [d]efinitions);

- (C) has actively participated in work search efforts conducted through the Texas Workforce Commission;
- (D) has performed active work search efforts documented by job applications; or
- (E) has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The claimant's theory for entitlement to SIBs for the seventh quarter was based on an active work search. The ALJ stated in her discussion that the evidence submitted by the claimant showed sufficient searches for each week of the qualifying period for the seventh quarter. However, the claimant's Application for SIBs (DWC-52) and supporting documentation in evidence indicates that the claimant only made two work search efforts during week thirteen of the qualifying period, June 11, 2023, through June 17, 2023. The claimant testified that he worked as a handyman on June 19, 2023, and June 20, 2023, but this was after the end of the qualifying period at issue. As there is no evidence that the claimant made the required three work searches during week thirteen of the qualifying period, we reverse the ALJ's determination that the claimant is entitled to SIBs for the seventh quarter from July 1, 2023, through September 29, 2023, and we render a new decision that the claimant is not entitled to SIBs for the seventh quarter from July 1, 2023, through September 29, 2023.

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

**JEANETTE WARD, PRESIDENT & CEO  
2200 ALDRICH STREET  
AUSTIN, TEXAS 78723.**

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Cristina Beceiro  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge