

## APPEAL NO. 990354

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 22, 1999, a hearing was held. The hearing officer determined that respondent's (claimant) compensable injury includes psychological problems, that appellant (carrier) did not timely controvert a psychological injury, and that claimant is entitled to supplemental income benefits for the 11th compensable quarter. Carrier asserts that the decision is against the great weight and preponderance of the evidence, contending notice given it of the injury was insufficient to trigger a requirement to dispute a psychological injury, and also stating that claimant did not attempt to find work in good faith. Claimant replied that the decision should be affirmed.

### DECISION

Finding that the request for appeal was not timely filed, the decision and order of the hearing officer are final.

The decision and order of the hearing officer were distributed on January 29, 1999, by cover letter dated January 29, 1999. Attached to the Texas Workers' Compensation Commission's copy of such cover letter and decision is a signed receipt therefore by carrier's representative dated February 1, 1999. With Section 410.202 requiring that a written request for review be filed not later than the 15th day after the decision was received, the carrier had through February 16, 1999 (a Tuesday and not a holiday), to file an appeal. The request for appeal is dated February 17, 1999 (both copies received are so dated), and the appeal also states that a copy was mailed to claimant on February 17, 1999. One copy received has no envelope but is marked as received on February 19, 1999; the other copy received has an envelope that is postmarked February 19, 1999. We conclude that the request for appeal was mailed and filed later than February 16, 1999, and is untimely.

The timeliness of an appeal is jurisdictional and does not have to be raised by a party to be addressed on review. See Texas Workers' Compensation Commission Appeal No. 941695, decided January 27, 1995. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(c) (Rule 156.1(c)) provides that the 15-day period begins on the date a copy is received by the carrier's representative. *Also see* Rule 143.3.

With no timely appeal, the decision and order of the hearing officer are final. See Section 410.169.

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Joe Sebesta  
Appeals Judge

CONCUR:

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Stark O. Sanders, Jr.  
Chief Appeals Judge

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Robert W. Potts  
Appeals Judge