

APPEAL NO. 991059

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 April 6, 1999. With respect to the issues before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBS) for the seventh, eighth, ninth, and 10th quarters, and that the claimant has ceased to be entitled to any additional income benefits under Section 408.146 because he was not entitled to SIBS for 12 consecutive months. In his purported appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. The appeals file does not contain a response to the claimant's appeal from the respondent (carrier).

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission show that the decision of the hearing officer was distributed to the parties on April 20, 1999, with a cover letter of the same date. In his appeal, the claimant does not state when he received a copy of the hearing officer's decision; however, pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(h) (Rule 102.5(h)), the claimant is deemed to have received the decision five days after it was mailed. The fifth day after the hearing officer's decision was distributed fell on Sunday, April 25, 1999. Under Rule 102.3(a)(3) the deemed-receipt period extended to Monday, April 26, 1999. Pursuant to Section 410.202 and Rule 143.3(c), an appeal is timely if it is filed not later than the 15th day after the date of receipt of the hearing officer's decision. In this instance, the 15th day after the deemed date of receipt was Tuesday, May 11, 1999. The claimant's appeal is postmarked May 14, 1999, and it is, therefore, untimely.

A timely appeal not having been filed, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer became final under Section 410.169.

Elaine M. Chaney
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge