

APPEAL NO. 991347

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 16, 1998, January 15, 1999, and March 8, 1999, a contested case hearing (CCH) was held. He (hearing officer) determined that the respondent (claimant) is entitled to supplemental income benefits (SIBS) for the first two compensable quarters. Appellant (carrier) appeals this determination on sufficiency grounds. The file does not contain a response from claimant.

DECISION

The carrier's request for review was not timely filed. Therefore, the hearing officer's decision is final. See Sections 410.169 and 410.202.

Records of the Commission show that the decision and order of the hearing officer was distributed on March 11, 1999, by cover letter dated that same date. Such distribution to the carrier was to its city representative, via a designated box in the Commission's central office. See Rules 102.5(b) and 156.1; see *also* TWCC Advisory 93-11, dated November 4, 1993. Attached to the Commission's copy of such letter and decision is a signed receipt therefore by the carrier's City 1 representative dated March 12, 1999. Because Section 410.202 provides that a request for review must be filed no later than the 15th day after the decision is received by a party, the carrier had until Monday, March 29, 1999, to file (or mail) the appeal. The carrier's request for review was sent to the Commission by facsimile transmission on June 25, 1999, and was received that same date. Rule 143.3 provides that a request for review shall be presumed to be timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date of receipt. The request for review was untimely because it was not mailed on or before March 29, 1999. In a June 25, 1999, letter, attorney for carrier indicates that a copy of the request for review had been sent to the Commission on an earlier date. However, no such copy is contained in the file and there is nothing to indicate that such was sent or received.

The timeliness of an appeal is jurisdictional and does not have to be raised by a party to be addressed on review. Texas Workers' Compensation Commission Appeal No. 941695, decided January 27, 1995. The date a party receives the decision, including through its City representative, begins the 15-day period for appeal. Texas Workers' Compensation Commission Appeal No. 93353, decided June 21, 1993.

Based upon the absence of a timely appeal, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Judy L. Stephens
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Elaine M. Chaney
Appeals Judge