

## APPEAL NO. 991618

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On July 6, 1999, a contested case hearing (CCH) was held. In response to the issue at the CCH, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits for the second compensable quarter. Appellant (carrier) appeals this determination on sufficiency grounds. Claimant responds that the Appeals Panel should affirm the hearing officer's decision and order.

### 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 Texas Workers' Compensation Commission (Commission) show that the decision and order of the hearing officer was distributed on July 13, 1999, by cover letter dated that same date. Such distribution to the carrier was to its Austin representative, via a designated box in the Commission's central office. See *Tex. W.C. Comm'n*, 28 TEX. ADMIN. CODE § 102.5(b) (Rule 102.5(b)) and Rule 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 therefor by the carrier's Austin representative dated July 13, 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 Wednesday, July 28, 1999, to file (or mail) the appeal. The carrier's request for review was dated July 29, 1999, and was received by the Commission on July 30, 1999. 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.

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 Austin 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.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Philip F. O'Neill  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge