

APPEAL NO. 991993

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 6, 1999. He (hearing officer) determined that appellant (claimant) is not entitled to supplemental income benefits (SIBS) for the eighth quarter. Claimant appeals the hearing officer's determination, apparently on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

The claimant's appeal was not timely filed. Thus, it did not invoke the jurisdiction of the Appeals Panel and the hearing officer's decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on August 16, 1999, with a cover letter dated that same day. Claimant's request for review does not indicate when she received the hearing officer's decision and order. Under 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 and order five days after the date it was mailed. Because the fifth day fell on Saturday, August 21, 1999, the deemed date of receipt was Monday, August 23, 1999. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was Tuesday, September 7, 1999. Claimant's request for review was mailed to the Appeals Panel on September 8, 1999, which was not timely.

Because claimant did not timely file her request for review, the request for review did not properly invoke the Appeals Panel's jurisdiction. Accordingly, the hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy Stephens
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Alan C. Ernst
Appeals Judge