

APPEAL NO. 000114

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 December 14, 1999. In response to the issue at the CCH, the hearing officer determined that the appellant (claimant) is not entitled to SIBS for the fifth quarter. The claimant appeals, contending that the hearing officer misinterpreted the new SIBS rules in reaching his decision. The respondent (carrier) responds that the Appeals Panel should affirm the 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 December 22, 1999, with a cover letter dated that same date. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended, the claimant is deemed to have received the decision and order five days after the date it was mailed, or on Monday, December 27, 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 January 11, 2000. Claimant's request for review was mailed to the Appeals Panel on that day. The 20th day after the deemed receipt date was January 16, 2000, a Sunday. The next day, January 17, 2000, was a holiday. Therefore, the deadline for receipt by the Commission was Tuesday, January 18, 2000. See Rule 102.3(a)(3). The Commission did not receive the request for review until January 20, 2000. Therefore, the appeal is untimely.

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

Judy Stephens
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Gary L. Kilgore
Appeals Judge