

APPEAL NO. 001361

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 May 5, 2000. The hearing officer determined that the appellant (claimant) is entitled to supplemental income benefits (SIBs) for the second quarter; that the claimant is not entitled to SIBs for the third through seventh quarters; that the claimant remains entitled to medical benefits regarding the compensable injury; and that the claimant has permanently lost entitlement to SIBs because of not being entitled for 12 consecutive months. The claimant has filed a request for review, challenging the adverse SIBs determinations for evidentiary insufficiency. The respondent (carrier) has filed a request for review of the second SIBs quarter determination but conditioned on the claimant's filing an appeal.

DECISION

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

Pursuant to Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c), an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision. Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on June 1, 2000, with a cover letter of the same date. The claimant states that she received the hearing officer's decision on June 5, 2000. Accordingly, the claimant had 15 days from June 5 or until June 20, 2000, a Tuesday, to mail her request for review to the Commission. The envelope containing the claimant's request for review bears a stamp reflecting that it was mailed on June 21, 2000. Further, the claimant also "faxed" her request for review to the Commission on June 21, 2000. Accordingly, the claimant's request for review was not timely filed. Since the claimant's request for review was untimely and failed to properly invoke the jurisdiction of the Appeals Panel, the decision and order of the hearing officer have become final pursuant to Section 410.169. This being the case, the carrier's conditional request for review is dismissed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Judy L. Stephens
Appeals Judge