

APPEAL NO. 001451

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 22, 2000. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on December 16, 1999, with a 10% impairment rating (IR), in accordance with the report of the designated doctor. The claimant challenged these adverse determinations on sufficiency grounds. The respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

Claimant did not file his appeal within the time period required by the rules of the Texas Workers' Compensation Commission (Commission). Therefore, the appeal did not invoke the Appeals Panel's jurisdiction and the hearing officer's decision and order have become final pursuant to Section 410.169.

The Commission's records show that the hearing officer's decision was mailed to claimant on May 31, 2000, with a cover letter dated that same date. Claimant's request for review indicates that he did not receive the hearing officer's decision and order until nine days later, on June 9, 2000. The appeal does not explain why he did not receive it until that date. Rule 102.5(d) (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d)), as amended effective August 29, 1999, provides that, unless the great weight of evidence indicates otherwise, a claimant is deemed to have received the hearing officer's decision five days after it was mailed or, in this case, on Monday, June 5, 2000. 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, June 20, 2000. Claimant's request for review was mailed on June 23, 2000, which was beyond the fifteenth day following the deemed date of receipt of the hearing officer's decision. Therefore, claimant's appeal is untimely.

Because claimant did not file his request for review on time, the request for review did not properly invoke the Appeals Panel's jurisdiction. The hearing officer's decision and

order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy L. Stephens
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge