

APPEAL NO. 001610

On June 6, 2000, the Appeals Panel issued Texas Workers' Compensation Commission Appeal No. 000858. That decision determined that a timely appeal was not filed and that the decision and order of the hearing officer became final pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 (*et seq.*) 1989 Act. On June 26, 2000, the Texas Workers' Compensation Commission (Commission) received the appellant's (claimant) request for reconsideration. The claimant states that his appeal was mailed from the downtown post office in (city 1), Texas, at 11:45 p.m. on April 19, 2000, and requests that his appeal be considered.

The Texas Workers' Compensation Act does not provide for reconsideration of an Appeals Panel decision. Section 410.204(a) provides that the Appeals Panel will issue "a" decision on issues upon which review was requested and "shall file" a copy of "the decision" with the Director of the Division of Hearings. Section 410.205 then says "[a] decision of an appeals panel regarding benefits is final in the absence of a timely appeal for judicial review." Section 410.252(a) then provides that a party may seek judicial review by filing suit not later than the 40th day after the date on which "the" decision of the Appeals Panel was filed with the division. These sections of the 1989 Act indicate that the Appeals Panel provides a written decision within a set time and files that decision with the Director of Hearings, after which a party's remedy is to file suit within 40 days of the Appeals Panel's filing of its decision.

In previous cases, the Appeals Panel has considered motions for reconsideration when they dealt with matters set forth in Sections 410.202 and 410.203. These matters included consideration of evidence that a timely response had been filed by a party which the Commission misplaced so that it was not considered when the appeal was decided; that a timely cross-appeal had been filed with the Commission which was not in the appeals file and was not considered when the decision was issued; and evidence that what had appeared to be an untimely appeal was, in fact, timely. See Texas Workers' Compensation Commission Order No. 99025, decided July 16, 1999. After careful consideration, we decline to follow our previous cases on the basis that we do not have any authority to consider the claimant's request for reconsideration.

The claimant's request for reconsideration is denied.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Gary L. Kilgore
Appeals Judge