

## APPEAL NO. 001751

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 July 10, 2000. With respect to the single issue before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 14th quarter. In its appeal, the appellant (self-insured) argues that the hearing officer's determinations that the claimant made a good faith effort to look for employment commensurate with her ability to work and that she is entitled to SIBs for the 14th quarter are against the great weight of the evidence. The appeals file does not contain a response to the self-insured's appeal from the claimant.

### DECISION

Determining that the self-insured's request for review was not timely filed with the Texas Workers' Compensation Commission (Commission) and that the jurisdiction of the Appeals Panel has not been properly invoked, the decision of the hearing officer has become final under Section 410.169.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for review shall be presumed to be timely filed if it is: (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994.

Records of the Commission reflect that the hearing officer's decision was distributed to the self-insured on July 14, 2000, with a cover letter of the same date. The self-insured states in its appeal that it received the hearing officer's decision on July 14, 2000. The 15th day after the July 14, 2000, date of receipt is Saturday, July 29, 2000. Because the last day of the period to file an appeal was not on a working day, pursuant to Rule 102.3(c), the period extended to Monday, July 31, 2000. The self-insured's certificate of service asserts that the appeal was hand delivered to the Commission on July 31, 2000, and the cover letter bears that date. However, the appeal is date-stamped as having been received by the Commission's Chief Clerk of Proceedings on August 1, 2000. Since the self-insured's appeal was hand delivered to the Commission one day late, it was not timely filed.

The hearing officer's decision and order have become final under Section 410.169.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Judy L. Stephens  
Appeals Judge