

APPEAL NO. 010494

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 December 14, 2000, and February 8, 2001. On the sole issue, the hearing officer determined that the appellant (claimant) is not entitled to have the statutory maximum medical improvement date extended pursuant to Section 408.104 or any other statutory provision. The claimant urges reversal, asserting that the hearing officer's decision is contrary to the law and the great weight of the evidence. No response to the appeal was filed.

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(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (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 satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001. The claimant asserts that he received a copy of the hearing officer's decision on February 16, 2001. The appeal was mailed on March 1, 2001, within the required 15-day period. However, the appeal was stamped as received by the Commission's Chief Clerk of Proceedings on March 9, 2001, more than 20 days after the claimant's receipt of the decision. The appeal, therefore, is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final under Section 410.169.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge