

## APPEAL NO. 010667

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 February 28, 2001. With respect to the issues before him, the hearing officer determined that the appellant/cross-respondent (claimant) was not entitled to supplemental income benefits for the first, second, and third quarters. The claimant asserted that the hearing officer's decision was incorrect in that the hearing officer did not correctly apply the law. The respondent/cross-appellant (carrier) submitted a conditional request for review and a response to the claimant's appeal. The carrier generally urges that the hearing officer's decision be affirmed.

### DECISION

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

The claimant's appeal states that the decision of the hearing officer was received by the claimant on March 13, 2001. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed 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 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.

Fifteen days from the date of the claimant's receipt of the hearing officer's decision would have been Wednesday, March 28, 2001. The claimant's cover letter and certificate of service are both dated March 28, 2001, but the postmark on the envelope is March 29, 2001. Therefore, the appeal was not mailed, hand-delivered, or faxed within the required 15 days.

The claimant's appeal being untimely, the decision and order of the hearing officer have become final. Section 410.169. Because the claimant's appeal is untimely, we need not address the carrier's conditional cross-appeal.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge