

APPEAL NO. 011857  
FILED SEPTEMBER 6, 2001

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 June 26, 2001. The hearing officer determined that (1) the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first, second, third, or fourth quarters; and (2) the respondent (carrier) is relieved from liability for second and third quarter SIBs because of the claimant's failure to timely file an application. The claimant appeals the determination that he is not entitled to SIBs for the first through fourth quarters on sufficiency grounds. The claimant does not appeal the determination regarding the carrier's liability for the second and third SIBs quarters. The carrier urges affirmance of the hearing officer's decision.

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. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). 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.

Commission records indicate that the hearing officer's decision was mailed to the claimant on July 6, 2001. The claimant was deemed to have received the hearing officer's decision on July 11, 2001, five days after it was mailed. Rule 102.5(d). Accordingly, the last day for the claimant to file an appeal was August 1, 2001, a Wednesday. The claimant faxed a copy of his appeal to the Commission on August 8, 2001, and it was stamped as received by the Commission's Chief Clerk of Proceedings on that date. The faxed appeal is, therefore, untimely.

The claimant mailed a copy of his appeal to the Commission on July 23, 2001. The mailing was returned for insufficient postage and re-mailed on August 1, 2001, within the required 15-day period. However, the appeal was not received by the Commission's Chief Clerk of Proceedings until August 10, 2001, more than 20 days after the claimant's receipt of the decision. The claimant also delivered a copy of his appeal to the Commission via UPS Next Day Air. The UPS airbill shows that the appeal was mailed on August 8, 2001, more than 15 days after the claimant's receipt of the decision. The appeal 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.

The true corporate name of the insurance carrier is **NATIONAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

---

Gary L. Kilgore  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Philip F. O'Neill  
Appeals Judge