

APPEAL NO. 012333  
FILED NOVEMBER 5, 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 August 9, 2001. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, did not include an injury to the cervical spine; that the claimant reached maximum medical improvement on December 5, 2000; that the claimant's impairment rating is seven percent; and that the claimant has had disability from June 12, 2000, through July 16, 2000, and beginning again on July 27, 2000, and continuing through August 4, 2000, due to his compensable injury. The claimant appeals the adverse determinations, citing evidence which he believes supports decisions which would be favorable to him. The respondent (carrier) replies, alleging, first, that the claimant's appeal is untimely, and, second, that the hearing officer's determinations should 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.

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). 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.

Records of the Commission reflect that the hearing officer's decision was mailed on September 4, 2001, and is deemed received by the claimant on September 9, 2001 (even though that day was a Sunday). Rule 102.5(d). The claimant had 15 days, not including Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, or until September 28, 2001 (a Friday), to mail the appeal and another five days, or until October 5, 2001 (a Friday), for the appeal to be received by the Commission's central office in Austin. The envelope accompanying the claimant's appeal reflects that the claimant placed the appeal in the mail on September 29, 2001. Accordingly, the appeal was not mailed by the 15th day and it is therefore untimely.

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

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**GARY SUDOL  
ZURICH NORTH AMERICA  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge