

APPEAL NO. 020172  
FILED MARCH 12, 2002

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 3, 2001. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on September 16, 1996, and that the correct impairment rating (IR) is two percent. The claimant has requested our review, asserting various errors and contending that the hearing officer erred in determining MMI and IR. The respondent (carrier) contends that the claimant's appeal is untimely and, alternatively, urges affirmance.

DECISION

A timely appeal not having been filed with the Texas Workers' Compensation Commission (Commission) and the jurisdiction of the Appeals Panel not having been properly invoked, the decision and order of the hearing officer have become final.

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." Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of 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 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 for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994.

Records of the Commission reflect that the hearing officer's decision was mailed to the claimant on December 18, 2001. Pursuant to Rule 102.5(d) of the 1989 Act, the claimant is deemed to have received the decision five days later, namely on December 23, 2001. Thus, the claimant had 15 days, as calculated by the amendment to Section 410.202, effective June 17, 2001, or until January 17, 2002, a Thursday, to mail the appeal and another five days 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 January 18, 2002, and that the appeal was received by the Commission on January 24, 2002. Accordingly, the appeal was not mailed by the 15th day and is therefore untimely.

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 **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL  
SUITE 2900  
DALLAS, TEXAS 75201.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge