

APPEAL NO. 020698
FILED MAY 2, 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 February 14, 2002. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 12th quarter. In his appeal, the claimant essentially argues that the hearing officer's determination that he is not entitled to SIBs for the 12th quarter is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

The hearing officer's decision and order have become final under Section 410.169 because the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

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." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code are not included in the computation of the time in which a request for appeal under subsection (a) or a response under subsection (b) must be filed. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §143.3(c) (Rule 143.3(c)) provides that a request for appeal 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 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.

The hearing officer's decision was distributed to the parties on February 21, 2002. Pursuant to Rule 102.5(d), the claimant was deemed to have received the hearing officer's decision five days later on Tuesday, February 26, 2002. Based on the February 26, 2002, date of receipt, the 15-day deadline for filing the appeal was March 19, 2002. The claimant's appeal was mailed to the Commission on March 22, 2002. As such, the claimant failed to satisfy the 15-day deadline and his appeal is untimely.

The hearing officer's decision and order have become final under Section 410.169.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Philip F. O'Neill
Appeals Judge