

APPEAL NO. 020852
FILED MAY 15, 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 March 6, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits for the 17th compensable quarter. On appeal, the claimant expresses disagreement with this determination. The respondent (carrier) urges that the claimant's appeal was not filed timely and, therefore, the Appeals Panel lacks jurisdiction to review the hearing officer's decision and order. Alternatively, the carrier urges affirmance.

DECISION

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

Records of the Texas Workers' Compensation Commission (Commission) reflect that on March 8, 2002, the hearing officer's decision was mailed to the claimant at the same address given as a return address on the envelope containing the appeal. Pursuant to Section 410.202(d), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in the Texas Government Code, of the date of receipt of the hearing officer's decision. Applying Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on March 13, 2002, and the deadline for the claimant to file an appeal was April 4, 2002. The envelope containing the claimant's appeal reflects that it was mailed on April 5, 2002, and, consequently, was not timely filed.

The claimant's request for review indicates that he received the hearing officer's decision and order on March 15, 2002. In Texas Workers' Compensation Commission Appeal No. 94117, decided March 3, 1994, we stated, "Where Commission records show distribution on a particular day to the address confirmed by the claimant as being accurate, a mere statement that the decision was not received in the mail is not sufficient to extend the date of receipt past the deemed date of [receipt established by Rule 102.5(d)]." In the present case, the claimant gives no explanation as to why he did not receive the hearing officer's decision until March 15. The claimant's unexplained statement that he did not receive the decision until March 15, 2002, is insufficient to extend the period for filing a timely appeal.

Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
COMMODORE 1
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge