

APPEAL NO. 030443
FILED APRIL 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 13, 2003. With respect to the sole disputed issue before her, the hearing officer determined that as a result of the decision and order (April 24, 2000 decision) of the CCH¹, the Texas Workers' Compensation Commission (Commission) does not have jurisdiction to determine disability for the period from October 5, 1999, through April 16, 2000. The claimant appeals, arguing that because the April 24, 2000, decision did not specifically address the period from October 5, 1999, through April 16, 2000, and because she was still treating with a doctor during that time, she should have disability for that period. The respondent (self-insured) responds, urging that the claimant's appeal be denied on legal grounds and/or because the claimant's appeal was not timely filed.

DECISION

Affirmed.

We first address the issue of the timeliness of the claimant's appeal. The decision and order of the hearing officer was mailed on January 24, 2003, and the claimant wrote that she received it on January 28, 2003. The applicable provisions governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), require that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Currently, a party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. Under the current method of calculation, the claimant's appeal would be timely if post-marked on or before February 19, 2003. The claimant's appeal is post-marked February 18, 2003. Thus, the self-insured's timeliness argument is unfounded.

The hearing officer did not err in determining that, as a result of the April 24, 2000, decision, the Commission did not have jurisdiction to determine disability for the period from October 5, 1999, through April 16, 2000. In the April 24, 2000, decision, the hearing officer directly addressed whether the claimant had disability resulting from her _____, compensable injury in a certified issue from the benefit review conference. The previous hearing officer thus had jurisdiction continuing through the date of the previous CCH, April 17, 2000, but determined that the claimant had disability

¹ The previous CCH was held on April 17, 2000.

only from May 25 through October 5, 1999. Neither the claimant nor the self-insured appealed the April 24, 2000, decision. The claimant testified that she misinterpreted the April 24, 2000, decision. The issue of disability for the period of October 5, 1999, through April 16, 2000, was therefore fully litigated, and the hearing officer in the present case was correct in determining that the Commission no longer had jurisdiction to revisit the issue.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY) TEXAS (ZIP CODE).**

Terri Kay Oliver
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge