

APPEAL NO. 030453
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 was held on January 3, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to or include an injury of L5-S1 radiculopathy or psychiatric problems. The claimant appeals and the respondent (carrier) responds, urging affirmance.

DECISION

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

Records of the Commission show that the hearing officer's decision was mailed to the claimant and the claimant's attorney on January 13, 2003, under a cover letter of the same date. The claimant, in her appeal, states that she received the hearing officer's decision on January 18, 2003.

Section 410.202(a) provides that a request for appeal shall be filed not later than the 15th day after the date on which the hearing officer's decision is received. Tex. W.C. Comm'n, 28 TEX. ADMIN. Code § 143.3(c) (Rule 143.3(c)) provides that a request for appeal is presumed to have been timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. Section 410.202 was amended on 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. Since the claimant received the hearing officer's decision and order on January 18, 2003, using the amended calculation method the claimant's request for review must have been mailed no later than February 10, 2003, and received by the Commission no later than February 18, 2003. The claimant's request for review was sent to the Commission by the carrier's attorney via mail on February 21, 2003, and received by the Commission on February 24, 2003. The claimant's appeal is untimely in that it was not timely mailed to the Commission on or before February 10, 2003, and not timely received by the Commission on or before February 18, 2003.

The claimant's request for review does recite a certificate of service to the opposing party and to the Commission on February 5, 2003, but there is insufficient evidence that the appeal was received by the Commission. Rather, the Commission received the carrier's response on February 24, 2003, and the carrier sent the Commission a copy of the claimant's appeal.

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

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** 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.**

Roy L. Warren
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge