

APPEAL NO. 030499
FILED APRIL 8, 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 22, 2003. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fourth quarter.

The claimant appeals, contending that she is entitled to SIBs on the basis of a total inability to work. The respondent (carrier) responds, asserting that the claimant's appeal is untimely and otherwise 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) show that the decision of the hearing officer was mailed to the claimant on January 29, 2003, under a cover letter of the same date. The claimant, in her appeal, does not state when she received the hearing officer's decision. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), unless the great weight of the evidence indicates otherwise, the hearing officer's decision is deemed to have been received by the claimant five days after the decision was mailed by the Commission, or in this case February 3, 2003.

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." 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 in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994. 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 in the computation of the 15-day appeal period. Therefore pursuant to Section 410.202(d) the claimant had 15 days from February 3, 2003, or until February 25, 2003, to mail the request for review to the Commission. A copy of the claimant's appeal was sent to the Commission by mail postmarked Wednesday, February 26, 2003 (and received February 28, 2003), while another copy of the appeal was sent by facsimile transmission after business hours on February 26, 2003, received by the Commission on February 27, 2003.

The claimant's appeal is untimely since it was mailed, or filed, after the 15-day statutory deadline of February 25, 2003.

The appeal being untimely, the jurisdiction of the Appeals Panel has not been properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Roy L. Warren
Appeals Judge