

APPEAL NO. 030861
FILED JUNE 2, 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 February 10, 2003. The hearing officer determined that the appellant (claimant) reached maximum medical improvement on May 25, 2001, with an 11% impairment rating. The claimant appealed these determinations on sufficiency of the evidence grounds. No response was filed.

DECISION

The decision and order of the hearing officer have become final pursuant to Section 410.169.

A written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code. Section 410.202(a) and (d). Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Rule 102.5(d) provides, in pertinent part, that unless the great weight of the evidence indicates otherwise, the hearing officer's decision is deemed to have been received by the claimant 5 days after the date the decision was mailed by the Commission. We have held that when Commission records show mailing to the claimant on a particular day at the correct address, the mere assertion that the decision was received after the deemed date of receipt is not sufficient to extend the date of receipt past the deemed date of receipt provided by Commission rule. Texas Workers' Compensation Commission Appeal No. 022550, decided November 14, 2002. Commission records indicate that the hearing officer's decision was mailed to the claimant's correct address on March 13, 2003. The claimant was deemed to have received the decision on March 18, 2003. Accordingly, the last date for the claimant to timely file an appeal was April 8, 2003. The appeal was postmarked on April 10, 2003, 2 days after the 15-day deadline. The appeal is, therefore, untimely.

Due to the appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **TEXAS POLITICAL SUBDIVISIONS JOINT SELF-INSURANCE FUNDS** and the name and address of its registered agent for service of process is

**TIM OFFENBERGER
12720 HILLCREST, SUITE 100
DALLAS, TEXAS 75230.**

Edward Vilano
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge