

APPEAL NO. 032046
FILED SEPTEMBER 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 was held on June 18, 2003. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first and second quarters.

The claimant appealed, contending that she was entitled to SIBs because her total inability to work in any capacity satisfied the good faith effort to obtain employment commensurate with her ability to work. The respondent (carrier) responded, urging affirmance.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3 (Rule 143.3(c)), requires 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. Section 410.202 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. The hearing officer's decision was distributed on July 9, 2003. Pursuant to Rule 102.5(d), the claimant is deemed to have received the hearing officer's decision on July 14, 2003. In accordance with amended Section 410.202 the appeal was due on August 4, 2003. The claimant's appeal was sent by facsimile transmission (fax) to the Commission at 17:06 (5:06 p.m.) on August 4, 2003, and was date time stamped received on August 5, 2003.

Rule 102.3(e) states that "[u]nless otherwise specified by rule, any written or telephonic communications required to be filed by a specified time will be considered timely only if received prior to the end of normal business hours on the last permissible day of filing." Rule 102.3(d) provides that "[a]ny written or telephonic communications received other than during normal business hours on working days are considered received at the beginning of normal business hours on the next working day." Finally, Rule 102.3(c) established that "[n]ormal business hours in the Texas workers' compensation system are 8:00 a.m. to 5:00 p.m. Central Standard Time with the exception of the Commission's field office whose normal business hours are 8:00 a.m. to 5:00 p.m. Mountain Standard Time." The faxed copy was filed on August 5, 2003, one day late.

The appeal is therefore untimely and by operation of Section 410.169 the hearing officer's decision and order have become final.

The true corporate name of the insurance carrier is **GENERAL ACCIDENT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C. J. FIELDS
5910 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75206.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge