

PEAL NO. 032748
FILED DECEMBER 4, 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 March 20, 2003. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) failed without good cause to submit to a required medical examination on June 10, 2002, and that, as a result, she is not entitled to temporary income benefits for the period from June 10 to October 15, 2002. The claimant did not appear at the hearing and did not respond to a show cause letter. Thus, the hearing officer closed the record and resolved the issue against the claimant. In her purported appeal, the claimant contends that she did not attend the hearing and did not respond to the show cause letter because she was incarcerated at that time on a charge that was later dismissed. In its response to the claimant's appeal, the respondent (carrier) 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.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. 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 from the computation of time in which to file an appeal. Section 410.202(d). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §143.3(c) (Rule 143.3(c)) provides that 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. Both portions of Rule 143.3(c) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

Commission records indicate that the hearing officer's decision was mailed to the claimant on April 24, 2003, at the address supplied by the claimant. Pursuant to Rule 102.5(d), the claimant was deemed to have received the hearing officer's decision five days later, or on April 29, 2003. In accordance with amended Section 410.202, the appeal needed to be mailed no later than May 20, 2003, and received no later than May 28, 2003. The claimant's appeal was mailed to the Commission on October 14, 2003, and received on October 17, 2003; thus, the appeal is untimely.

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 **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge