

APPEAL NOS. 000703,
001066, 001067
AND 001068

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 March 1, 2000. The issues at the CCH dealt with four separate injuries under four separate docket numbers, dealing with whether the first-listed case involved a new injury resulting in disability, whether the third-listed case's injury was the cause of the respondent's (claimant) current medical problems, and dealing with the claimant's maximum medical improvement (MMI) and impairment rating (IR) for the second- and fourth-listed cases. The hearing officer determined that the first-listed case involved a new injury; the claimant's current medical problems are not caused by the injury involved in the third-listed case; the claimant attained MMI by operation of law on August 29, 1997, with no assessed IR as to the second-listed case and a designated doctor should be appointed; and the claimant attained MMI on March 10, 1999, with a one percent IR as to the fourth-listed case. The appellant (carrier) appeals, contending that the CCH was originally set to address the alleged injury involved in the fourth-listed case but the hearing officer, on her own motion, added issues concerning the other three claims and, most importantly, erred in determining that the claimant sustained a new injury on _____. The claimant responds that the hearing officer's determinations are supported by the evidence and should be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

The carrier states in its appeal that its attorney received a copy of the hearing officer's decision on March 20, 2000. However, records of the Texas Workers' Compensation Commission (Commission) show that the letter distributing the decision of the hearing officer is dated March 16, 2000; that the decision was distributed on that date; and that it was signed for by the carrier's Austin representative (which is the carrier's attorney's law firm) on March 17, 2000. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE ' 156.1(a) (Rule 156.1(a)), each carrier shall designate an Austin representative to act as agent for receiving notice from the Commission, and, under Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on March 17, 2000, when its Austin representative received it.

Pursuant to Section 410.202, an appeal must be filed within 15 days after receipt of the hearing officer's decision. 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 Commission not later than the 20th day after receipt of the hearing officer's decision. The last day for the appeal to have been timely filed or mailed by the carrier was Monday, April 3, 2000 (the 15th day having fallen on a Saturday, see Rule

102.3(a)(3), as amended effective August 29, 1999). The carrier's certificate of service reflects service on the claimant on April 4, 2000; the cover letter with the carrier's appeal is dated April 4, 2000; and the carrier's appeal was hand-delivered to the Commission on April 4, 2000, one day after the 15-day period specified in Rule 143.3(c). The carrier's appeal is therefore untimely.

The carrier's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

Tommy W. Lueders
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Elaine M. Chaney
Appeals Judge