



## California Workers' Compensation Institute

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September 24, 2015

**Significant Decision 15-04**

**MATUTE V LA UNIFIED SCHOOL DISTRICT  
WCAB, EN BANC  
ADJ984305**

FILED: SEPTEMBER 17, 2015

The time to file an appeal from an IMR is extended 5 days for mailing.

**SIGNIFICANCE:** The 30-day period to file an appeal from an IMR determination is extended by 5 days pursuant to Labor Code section 5316 and CCP section 1013(a).

**FACTS:** In February of 2015, the WCJ ruled that the injured worker's appeal from IMR was untimely because the 5-day rule for mailing did not apply to an IMR determination. The time for filing an appeal stated in Labor Code 4610.6(h) is initiated by the mailing of the appeal not the service.

**HOLDING:** In a unanimous en banc opinion, the Board held that the term "mailing" in section 4610.6 is equivalent to and means "service by mail."

**DISCUSSION:** The Board dissected section 4610.6 and the case law determining the right to and timing of a further appeal of a decision. The Board found that filing on the 34<sup>th</sup> day was timely, as the applicant had 35 days to file.

MMc/