

APPEAL NO. 991165

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 July 6, 1998. The issues at the CCH were extent of injury, carrier contest of compensability, eighth quarter supplemental income benefits (SIBS), and ninth quarter SIBS. The hearing officer determined that the _____, injury did not extend to an inguinal hernia, the carrier did timely contest compensability, the claimant is entitled to SIBS for the eighth compensable quarter, and the claimant is not entitled to SIBS for the ninth compensable quarter.

On May 7, 1999, attorney issued a Commission Order for Attorney's Fees, covering services for the period from August 11, 1998, through March 11, 1999, approving 7.25 hours as requested and approving \$87.62 in expenses out of \$315.20 requested, for a total approved fee, including expenses, of \$993.87 out of \$1,221.45 requested. One expense item, for \$227.58 for cost of records on June 15, 1998, was disapproved for the reason "Date Not in Date Range." The Attorney Fee Processing System reflects that there was no justification text or log text in connection with the order. The appellant (attorney) appeals the Order, contending that the disapproved expenses were reasonable and necessary and represent copying costs incurred by the carrier in order to complete its exchange of information with the claimant in preparation for the CCH. The attorney asks that the Appeals Panel reverse the Order and award the attorney the \$227.58 in expenses. The file contains no response from the carrier or the claimant.

DECISION

We affirm the Order.

We review attorney's fees cases under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. The Order (and apparently also the attorney's Application for Attorney's Fees (TWCC-152)) covered the period from August 11, 1998, through March 11, 1999, while the expense item in question is for services on June 15, 1998. The attorney did not submit any justification text connecting this June 1998 item with the service period which began almost two months later, and we will not consider the justification submitted for the first time on appeal. We do not consider that attorney abused his discretion by disapproving this item for the reason stated in the Order.

Finding no abuse of discretion, we affirm the Order.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Dorian E. Ramirez
Appeals Judge