

APPEAL NO. 001585

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 May 26 and June 13, 2000. The issues at the CCH were whether the claimant is entitled to supplemental income benefits (SIBs) for the seventh and ninth quarters and whether he has permanently lost entitlement to SIBs. The hearing officer determined that the claimant is entitled to SIBs for the seventh and eighth quarters and that the claimant has not permanently lost entitlement to SIBs because he was not entitled to them for 12 consecutive months.

On June 28, 2000, the hearing officer issued a Commission Order for Attorney's Fees (Order), covering services for the period from June 9, 2000, through June 13, 2000, approving 7.20 hours out of 14.20 hours requested, for a total approved fee, including expenses, of \$1,080.00 out of \$2,631.26 requested. The appellant (attorney) appeals, contending that the hearing officer erred in denying travel time and travel-related expenses to attend the CCH. The appeal file contains no response from the carrier or the claimant.

DECISION

We reverse and render.

The Appeals Panel reviews attorney's fees cases under a standard of abuse of discretion. Texas Workers' Compensation Commission Appeal No. 91010, decided September 4, 1991. The disapproved items were 7.00 hours of travel time to attend the CCH (disapproved for "Multiple Reasons") and related travel expense items for air fare, auto rental, meals, and parking (disapproved for the reason "Service Provided Unclear"). The attorney's justification text states, in pertinent part:

I . . . INCURRED OVER 6 HOURS OF TRAVEL TIME BETWEEN MY OFFICE IN (CITY 1), TX AND THE COMMISSION [Texas Workers' Compensation Commission].

The hearing officer's log text discusses travel time from (city 2) (where, he says, the attorney has an office) and (city 3) and surmises that the attorney may have placed the expenses from another case in this fee request.

It is apparent that much of the confusion in this case is due to the fact that the law firm involved has a number of offices. The firm does have a city 2 office, as shown by the mailing address for the copy of the Order that went to the firm. The attorney's request for review is on the letterhead of the firm's (city 4) office but was mailed from (city 5) with the firm's city 2 return address. We note, however, that the letterhead shows the attorney's telephone number as having a city 1 area code. This is consistent with the attorney's statement in his justification text that he traveled from city 1 to the CCH in city 3. Given

that situation, the attorney is entitled to the disapproved travel time and travel expenses and the hearing officer abused his discretion in disapproving those items.

We reverse the Order insofar as it disapproves 7.00 hours of travel time and four travel expense items totaling \$501.26. This results in an additional approved 7.00 hours of attorney time at \$150.00 per hour, resulting in an additional approved fee of \$1,050.00 and additional approved expenses of \$501.26. Added to the original approved fee of \$1,080.00, this results in a total approved fee, including expenses, of \$2,631.26.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge