

APPEAL NO. 010149

This is an appeal of attorney's fees awarded to the appellant (attorney) for the claimant by hearing officer after a contested case hearing (CCH) held on December 5, 2000. The respondent (carrier) had raised the defense of intoxication, and the claimant prevailed on the compensability issue, although not on the disability issue.

There was no attorney's fees hearing after the CCH and the parties stated that they would rely on "written justification." The hearing officer approved only 2.10 hours of a requested 5.10 hours of time claimed both for attendance at the CCH and preparation therefore. Part of the denied hours included two hours of preparation claimed for the day before the hearing, which were disallowed as "duplicate" services. The hearing officer also disallowed one hour of preparation for the day of the CCH as a duplicate service, although he allowed another one-half hour for an office conference that same day. The claimant's attorney has appealed these determinations. There is no response from the claimant or the carrier.

DECISION

We reverse the disallowance of the preparation time for December 4 and 5, 2000, and agree that this neither appears to be a duplicate service nor in excess of the guidelines set out in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.4 (Rule 152.4). We therefore approve an additional three hours of time for the attorney.

In accordance with this decision, the carrier is ordered to pay an additional three hours, or \$450.00, subject receipt of benefits by the claimant, as set out in the original order for attorney's fees.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge