

APPEAL NO. 012304
FILED NOVEMBER 15, 2001

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 August 30, 2001. The hearing officer determined that the respondent's (claimant) correct impairment rating is 14%. On September 6, 2001, the hearing officer issued a [Texas Workers' Compensation] Commission Order for Attorney's Fees (Order), covering services for the period from June 10, 2001, through August 30, 2001, approving 15 hours out of 24 hours requested, for a total approved fee, including expenses, of \$1,925.40 out of \$3,050.40 requested. Five items were not approved for the reason "Ex Guideline/Unreasonabl." On appeal, the appellant (attorney) contends that the time expended on the case, which was not approved by the hearing officer, was reasonable and necessary in preparation for the defense of the respondent's (carrier) claim. The appeal file contains no response from the carrier or the claimant.

DECISION

We reverse and remand.

The Attorney Fee Processing System (AFPS) shows that the attorney submitted the following justification text:

072501, 072601, 072701, and 072801 I PREPARED CARRIER'S DESIGNATION OF [ATTORNEY], PRODUCTION OF DOCUMENTS, WRITTEN INTERROGATORIES TO [CLAIMANT], AND DESIGNATION OF WITNESSES FOR THE CCH, WHICH EXCEEDS THE GUIDELINES FOR WHICH JUSTIFICATION IS REQUESTED FOR APPROVAL.
072901 I REVIEWED VOLUMINOUS FILE MATERIAL IN [PREPARATION] FOR CCH.
073001 I PREPARED CARRIER'S MOTION FOR CONTINUANCE.
082201 I RESEARCHED APPEALS PANEL DECISIONS RE: EVIDENCE NECESSARY TO OVERTURN [DESIGNATED DOCTOR'S] OPINION.
083001 I TRAVELED FROM MY OFFICE IN (CITY 1) TO CCH IN (CITY 2). UPON COMPLETION OF CCH I TRAVELED TO MY OFFICE IN CITY 1.

The AFPS indicates that no log text was entered by the hearing officer.

We review attorney's fees cases under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. The hearing officer did not enter a log text indicating her reasons for denying the disputed fees. Without any indication of what guiding principles the hearing officer was applying in denying these fees, we must remand. We, therefore, reverse the decision of the hearing officer and remand the case.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 (amended June 17, 2001). See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge