

APPEAL NO. 020311
FILED MARCH 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The appellant (carrier) asserts that the Texas Workers' Compensation Commission (Commission) erred in two Commission orders, dated January 24, 2002, approving certain attorney's fees for the respondent's (claimant) attorney for services provided in the successful representation of the claimant in pursuit of supplemental income benefits (SIBs) because certain of the attorney's billings were duplicative. The carrier requests that the Appeals Panel "reverse the Commission order of the complained of fees and issue an order requiring that the excessive amount be reversed." The claimant's attorney urges in response that the challenged billings were correctly approved for payment because although they were made for services on the same dates, the work involved multiple quarters of SIBs.

DECISION

Affirmed.

The carrier attached to its request for review a Commission Order dated September 5, 2001, which approved certain of the claimant's attorney's fees requested for services provided during the period August 15, 2000, through April 20, 2001, and which reflects that those fees were paid by the carrier; a Commission Order dated January 24, 2002, approving certain of the claimant's attorney's fees requested for services provided during the period October 26, 2000, through April 20, 2001; and a Commission Order dated January 24, 2002, approving certain of the claimant's attorney's fees requested for services provided during the period January 26 through April 26, 2001. It is the latter two Orders which are the apparent subject of the carrier's request for review. The carrier has not provided evidence of the Attorney's Request for Attorney's Fees (TWCC 152) forms which resulted in the challenged orders nor evidence of justification texts or other documents which may have been submitted in support of the requested fees.

The carrier does not dispute that it is liable for the claimant's attorney's fees pursuant to Section 408.147(c). Rather, the carrier identifies and challenges the Commission's approval of certain fees for services provided on December 1, 2000, January 4, 2001, January 5, 2001, February 13, 2001, and April 20, 2001, on the basis of apparent duplication of services or billings in that some of those items appear on more than one order (for different amounts, in some instances). The claimant's attorney states in his response that the two Orders of January 24, 2002, reflect billings for two separate SIBs quarters, notwithstanding that some of the services billed for were performed by the attorney on the same day.

The carrier had the burden to show that the Commission abused its discretion in approving and ordering payment by the carrier of the challenged fees and has utterly failed

to meet that burden. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986).

The challenged orders are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge