

APPEAL NO. 022015  
FILED SEPTEMBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 20, 2002. The issue at the hearing was whether respondent 1 (claimant) was entitled to supplemental income benefits (SIBs) for the 13th quarter. The hearing officer determined that the claimant was entitled to SIBs for the 13th quarter because respondent 2 (carrier) waived the right to dispute entitlement to that quarter. On July 9, 2002, the hearing officer issued a Texas Worker's Compensation Commission (Commission) Order for Attorney's Fees (Order), covering services for the period from August 31, 2001, to May 22, 2002. The hearing officer approved all of the hours requested for a total approval of \$3,735.00. In his appeal, the appellant (attorney) argues that the hearing officer abused her discretion by ordering the fees requested to be paid out of the claimant's recovery. The appeal file does not contain a response from the claimant or the carrier.

DECISION

Reversed and a new decision rendered that the attorney's fees are to be paid by the carrier.

The amount of the attorney's fees awarded for the 13th SIBs quarter was not appealed. The July 9, 2002, order that the attorney's fees be paid from the claimant's benefits is reversed and a new decision is rendered that a fee of \$3,735.00 is to be paid by the carrier consistent with the provisions of Section 408.147(c). In Texas Workers' Compensation Commission Appeal No. 951045, decided August 8, 1995, the Appeals Panel stated the following:

Under Section 408.147(c), a carrier is liable for reasonable and necessary attorney's fees incurred by the claimant as a result of the carrier's dispute of his or her SIBS entitlement. In addition, Section 408.147 specifically provides that those fees, unlike other attorney's fees under the 1989 Act, are not paid out of claimant's benefits. Rather, the carrier is liable for attorney's fees over and above its liability for SIBS.

See *also* Texas Workers' Compensation Commission Appeal No. 962526, decided January 24, 1997; Texas Workers' Compensation Commission Appeal No. 960408, decided April 12, 1996; and Texas Workers' Compensation Commission Appeal No. 960228, decided March 20, 1996.

The Commission Order for Attorney's Fees issued by the hearing officer on July 9, 2002, is reversed and a new order is rendered that the attorney's fees are to be paid by the carrier.

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

**GEORGE MICHAEL JONES  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge