

APPEAL NO. 031502  
FILED JULY 23, 2003

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 scheduled for March 17, 2003, but respondent 2 (claimant) failed to attend. Upon a finding of good cause for the claimant's failure to appear, a CCH held on May 27, 2003. The hearing officer signed a Texas Workers' Compensation Commission Order for Attorney's Fees on May 7, 2003, approving 13.75 hours of the 26.4 hours requested attorney's fees for the appellant (attorney) and \$75.90 of requested expenses. The attorney appeals and requests that he be awarded \$1707.75 in additional attorney fees. There is no response from either respondent 1 (carrier) or the claimant.

DECISION

Reversed and rendered.

We review attorney's fees cases under an abuse-of-discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. The Attorney Fee Processing System (AFPS) printout shows that the attorney submitted a justification text for the fees requested in excess of the guidelines. The reason the attorney gave for exceeding the guidelines was the complexity of the case. The AFPS indicates that the hearing officer did not enter a log text explaining his decision to deny the fees in excess of the guidelines. The only reason given for disallowing the 12.65 hours in dispute was "Ex Guideline/Unreasonabl." A fee may exceed the guidelines provided the attorney requesting the fee provides a justification for doing so. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.4(b) (Rule 152.4(b)). Texas Workers' Compensation Commission Appeal No. 970248, decided March 31, 1997. We have recognized that where a hearing officer does not consider the justification text presented and merely indicates "exceeds guidelines," he or she does not have a sound basis to disapprove the requested fees. Texas Workers' Compensation Commission Appeal No. 960158, decided March 5, 1996. In this instance, it does not appear that the hearing officer considered the justification text and he gave no reasoned explanation for disallowing the disputed items. As such, his denial of the requested fees was an abuse of discretion.

In view of the justification text and the nature of the items in dispute, we reverse the Order and render a decision that the disputed items are approved for additional time of 12.65 hours of attorney time at \$135.00 per hour for a total additional approved fee of \$1707.75.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**JIM MALLOY  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Margaret L. Turner  
Appeals Judge