

APPEAL NO. 032373
FILED OCTOBER 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On August 29, 2003, (hearing officer), who presided over the underlying hearing, signed a Texas Workers' Compensation Commission Order for Attorney's Fees, approving 8.7 hours of the 9.7 hours requested attorney's fees for the appellant (attorney) and .5 hours of the .9 hours requested for legal assistant time. The attorney appeals and requests that he be awarded one additional hour of attorney time and .4 hours of legal assistant time for a total additional fee of \$165.00. The file does not contain a response from respondent 1 (carrier) or respondent 2 (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 her decision to deny the fees in excess of the guidelines. The only reason given for disallowing the 1 hour of attorney time and the .4 hours of legal assistant time is "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 she gave no reasoned explanation for disallowing the disputed items. As such, her 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 an additional 1 hour of attorney time at \$145.00 per hour and an additional .4 hour of legal assistant time at \$50.00 per hour, for a total approved fee of \$1,514.50.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge