

APPEAL NO. 032780  
FILED DECEMBER 10, 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 was held on July 11, 2003. At that hearing, the hearing officer determined that respondent 2's (claimant) compensable injury of \_\_\_\_\_, extends to and includes the psychological disorders of mental depression and anxiety, and that the claimant's impairment rating is 25%. On September 23, 2003, the same hearing officer issued a Texas Workers' Compensation Commission (Commission) Order for Attorney's Fees (Order) covering services from May 27 to July 11, 2003, approving 10.96 hours of a total of 35.99 hours requested for attorney and legal assistant time, for a total approved fee of \$1752.00 of the \$4,573.50 requested. In his appeal, the appellant, the attorney for the self-insured, contends only that a justification text for exceeding the attorney fee guidelines was inadvertently omitted when the fee application was made; thus, he asks for a remand so that the hearing officer can consider the justification text. The attorney does not argue that the hearing officer otherwise erred in denying the fees, based upon the record before him. The appeal file does not contain a response from respondent 1 (self-insured) or from the claimant.

DECISION

Affirmed.

We review attorney's fees cases under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. In this case, the record does not establish that the hearing officer erred or abused his discretion. The attorney for the self-insured had the burden to justify fees above the guidelines, but failed to include the justification text with his submission. See Section 408.222(a). Given the record before us, we perceive no error or abuse of discretion on the part of the hearing officer that would justify a remand. The attorney contends that the Appeals Panel has remanded for consideration of a justification text in similar cases, citing Texas Workers' Compensation Commission Appeal No. 93790, decided October 19, 1993. However, in that case, the Appeals Panel concluded that there had been no opportunity for a hearing on attorney's fees at all. In this case, the attorney for the self-insured had an opportunity to present evidence regarding attorney's fees at the hearing on the merits, but he did not avail himself of that opportunity.

We affirm the hearing officer's Order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge