

APPEAL NO. 041052
FILED JUNE 23, 2004

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 October 7, 2003, and November 19, 2003. The hearing officer determined that respondent 2 (claimant) is not entitled to supplemental income benefits (SIBs) for the 13th, 14th or 15th quarters. The claimant appealed and the Appeals Panel reversed the hearing officer's decision on all three SIBs quarters. After prevailing on appeal, the appellant (attorney) submitted three separate requests for attorney's fees, corresponding to each of the three SIBs quarters. On April 13, 2004, the hearing officer issued an Order for Attorney's Fees, approving all \$1,475.00 of the requested fees corresponding to the 13th quarter. On the same date, the hearing officer considered the attorney's applications for fees corresponding to the 14th and 15th quarters and approved .25 hours of the 10.20 requested for the 14th quarter and none of the 10.10 hours requested for the 15th quarter. The attorney appeals the Order For Attorney's Fees for the 14th and 15th quarters. The appeal file does not contain a response from either the claimant or respondent 1 (carrier).

DECISION

Reversed and remanded.

The attorney included in her requests for attorney's fees for both the 14th and 15th quarters a justification text explaining that the required procedure for submitting attorney's fees on SIBs matters is to file a separate request for each quarter. The attorney explained in both requests, "I separated all fees accumulated during each of these disputes respectively." The attorney also noted in her request that some of the requested fees exceeded the guidelines provided in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.4(c)(2) (Rule 152.4(c)(2)) and gave an explanation as to why this was so. The hearing officer denied all but .25 hours of the requested hours for the 14th quarter and denied all of the hours requested for the 15th quarter. In doing so, the hearing officer entered the following justification with regard to the 14th quarter.

All fees requested and not approved were due to fees for same service being approved [for the 13th quarter] for exactly the same service. The service was only performed one time and therefore can only be paid one time. These are duplicate billings.

The hearing officer's notation for the 15th quarter reflects the following:

These fees were approved [for the 13th quarter] and are duplicative. An attorney cannot charge three times for something that was only done one time. The fees [for the 14th quarter] were also denied except for those that were not duplicative.

Given that the Texas Workers' Compensation Commission's (Commission) procedure for requesting attorney's fees relating to SIBs cases requires that each quarter be requested separately, the fees requested for the 14th and 15th quarters are not necessarily duplicates of those requested and approved for the 13th quarter. Additionally, many of the hours requested for the 14th and 15th quarters are not exact duplicates of those requested for the 13th quarter. With this in mind, on remand the hearing officer should reconsider the fees that were denied based on "Duplicate Service" in the applications for the 14th and 15th quarters and, if necessary, issue new orders.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY OF KANSAS** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Chris Cowan
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge