

APPEAL NO. 041642
FILED AUGUST 30, 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 (CCH) in (Docket No. 1) was held on June 23, 2004. At the conclusion of that CCH, the hearing officer resolved the disputed issues by determining that respondent 2 (claimant) is not otherwise eligible but the claimant is entitled to supplemental income benefits (SIBs) for the fourth quarter as respondent 1 (carrier) waived its right to contest entitlement by failing to timely request a benefit review conference (BRC); that the claimant is not entitled to SIBs for the fifth quarter; and that the carrier did not waive its right to contest the claimant's entitlement to SIBs for the fifth quarter by failing to timely request a BRC. On July 2, 2004, the hearing officer issued a Texas Workers' Compensation Commission Order for Attorney's Fees (order) to be paid pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.1 (Rule 152.1) and Rule 152.2, in which the hearing officer approved \$2,287.50 of the \$2,287.50 in attorney's fees requested by the appellant (attorney) who represented the claimant. The order provided that the fees be paid only from the claimant's benefits. The attorney appealed the attorney's fees order, asserting that since the claimant prevailed on an issue involving SIBs entitlement the carrier should be required to pay the fees. The carrier responded, urging affirmance of the hearing officer's attorney's fee order. No response was received from the claimant.

DECISION

Reversed and remanded.

In Texas Workers' Compensation Commission Appeal No. 041672, decided August 18, 2004, we affirmed the hearing officer's decision and order in (Docket No. 1). In so affirming, we determined that the claimant is entitled to SIBs for the fourth quarter. As such, we remand the attorney's fee order back to the hearing officer for the sole purpose of properly applying Section 408.147(c) and Rule 152.1(f). The attorney's fee order is not being remanded for any further consideration of the amount requested or approved.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Daniel R. Barry
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge