

APPEAL NO. 041702  
FILED SEPTEMBER 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On June 29, 2004, a Texas Workers' Compensation Commission (Commission) hearing officer acted upon the appellant's (attorney) Application for Attorney's Fees (TWCC-152) by issuing a Commission Order for Attorney's Fees (order) in which he approved \$975.00 of the \$6,225.00 requested by the attorney. The attorney has appealed the hearing officer's order and the file does not contain a response from respondent 1 (carrier) or respondent 2 (claimant).

DECISION

Reversed and remanded.

The attorney submitted his TWCC-152 to the Commission for fees in the amount of \$6,225.00 and attached a justification text. The hearing officer's order denied the majority of the requested fees by noting that they were "unnecessary" and that they exceeded the guidelines and were unreasonable. Nothing in our review of the file indicates why the hearing officer determined the fees were unnecessary. No hearing was ever held on the issue of attorney's fees, and we find no explanation from the hearing officer in the file. We note that based upon the attorney's appeal, at least some portion of the requested fees dealt with the claimant's entitlement to supplemental income benefits (SIBs), and those fees are not subject to the fee guidelines. Section 408.147(c); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.1(f) (Rule 152.1(f)). To the extent that the fees are for time spent related to issues other than the claimant's SIBs entitlement, the fee guidelines contained in Rule 152.4 do apply and shall not be paid pursuant to Section 408.147(c) and Rule 152.1(f).

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 provide us with any evidence regarding why the hearing officer took the action that he did. As such, we are unable to determine whether the hearing officer erred or abused his discretion. We remand this matter back to the hearing officer for a hearing on the issue of the attorney's TWCC-152. Only after such hearing is held shall the hearing officer issue his order on this matter. Should the hearing officer deny any of the fees applied for by the attorney, the hearing officer shall give a specific explanation as to why the fees were denied.

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. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Margaret L. Turner  
Appeals Judge