

APPEAL NO. 071788
FILED DECEMBER 13, 2007

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) was held on September 20, 2006. The appellant (attorney) represented respondent 2 (carrier) at the CCH. The hearing officer issued a Texas Department of Insurance, Division of Workers' Compensation (Division) Order for Attorney's Fees on September 7, 2007, for dates of service from September 15, 2006, through September 22, 2006, approving 6.90 hours of the 10.60 hours requested for the attorney's services and denying all of the 2.30 hours requested for the services of the attorney's legal assistant. The attorney appeals and requests that the firm be awarded \$633.00 in additional attorney's fees. There is no response from either the carrier or the respondent 1 (claimant).

DECISION

Affirmed in part and reversed and rendered in part.

Section 408.222 pertains to attorney's fees paid to defense counsel. 28 TEX. ADMIN. CODE § 152.4 (Rule 152.4) sets forth the guidelines for legal services provided to claimants and carriers, and Rule 152.5 sets forth allowable expenses. We review a hearing officer's determination of attorney's fees under an abuse-of-discretion standard. Appeals Panel Decision (APD) 022605, decided November 27, 2002. Rule 152.4(b) provides that an attorney may request, and the Division may approve, a number of hours greater than those allowed by the guidelines, if the attorney demonstrates to the satisfaction of the Division that the higher fee was justified under Sections 408.221 and 408.222.

In regard to the disapproved fees there are five entries that were denied for "Multiple Reasons" and one entry denied for "Duplicate Service." The five entries denied for "Multiple Reasons" were listed as follows:

09/15/06: 0.80 hours for services performed by the legal assistant receiving and reviewing documents.

09/15/06: 0.60 hours for services performed by the legal assistant drafting and filing pleadings/documents.

09/18/06: 0.60 hours for services performed by the legal assistant drafting a letter.

09/22/06: 2.50 hours attorney time to attend proceeding.

09/22/06: 1.20 hours attorney time for travel time to attend a proceeding on 09/22/06.

We have previously stated that “multiple reasons” is not a sufficient explanation for denial of fees and that such notation is “unacceptable and does not allow a meaningful review.” APD 021808, decided September 5, 2002. The attorney submitted a justification text which stated in part that “[t]he extra hours, time and expenses on this invoice and expended on this claim, were done at the direction of the client and in order to protect the client’s interests. This claim has issues, facts, and/or procedural requirements that are specific to this claim and caused the need for additional fees and expenses.” In light of the attorney’s justification text, and the lack of any log text from the hearing officer, we find that the hearing officer abused her discretion in denying the requested fees associated with receiving and reviewing documents, drafting and filing the documents, and drafting a letter by the legal assistant. Accordingly, an additional 2.0 hours of legal assistant time is approved.

The hearing officer approved 2.50 hours requested by the attorney for attending the CCH on September 20, 2006, and 1.20 hours for travel time to attend that CCH. However, there is no indication in the Division records that the CCH was continued or that an additional proceeding was held on September 22, 2006. The attorney’s request for 2.50 hours for attending a proceeding on September 22, 2006, and for 1.20 hours for travel time to attend that proceeding is not supported by Division records nor was any explanation given regarding what proceeding the attorney attended on September 22, 2006. Accordingly, we affirm the hearing officer’s denial of 2.50 hours for attending an unknown proceeding on September 22, 2006, and 1.20 hours of travel time to attend that proceeding albeit on other grounds.

The attorney also appealed the hearing officer’s denial of the legal assistant’s time for a telephone conference.

09/18/06: 0.30 hours for services performed by the legal assistant in a telephone conference. The time requested was denied as a “Duplicate Service.”

There is only one entry listed for a telephone conference on this date for this sequence number. The hearing officer did not indicate that this entry was denied because it was in excess of the guidelines set forth in Rule 152.4, and it does not appear to exceed the guidelines. Therefore, we find that the hearing officer’s denial of the requested time for the telephone conference is an abuse of discretion and accordingly approve the .30 hours for the legal assistant’s time for the telephone conference.

In summary, we approve an additional 2.30 hours for legal assistant services at the requested rate of \$50.00 an hour resulting in an additional \$115.00. Accordingly, we reverse the hearing officer’s order approving a total fee of \$968.44 and we render a decision approving the payment of a total fee in the amount of \$1,083.44.

According to the information provided by the carrier at the CCH, the true corporate name of the insurance carrier is **ACIG INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM S. MCINTYRE, IV
12222 MERIT DRIVE, SUITE 1660
DALLAS, TEXAS, 75251-3121.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge