

APPEAL NO. 151390
FILED JULY 22, 2015

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A hearing officer issued an Order for Attorney's Fees (Order) Sequence No. 87, on May 14, 2015, granting 5.75 hours of attorney's fees at \$200.00 an hour for a total attorney fee request of \$1,150.00. The appellant (carrier) appealed the granting of attorney's fees which were submitted for travel time and attendance at a benefit review conference (BRC) held on November 10, 2014.

The carrier contends that the fees submitted included 5.0 hours for travel time, which is the amount consistently billed by this office for round trip travel from San Antonio to Corpus Christi, Texas. The carrier contends that 5.0 hours does not reflect the actual travel time by the attorney to the contested case hearing. Additionally, the carrier contends that the claimant's attorney submitted a different amount of time for attending the BRC than the attorney who represented the carrier at the same BRC. Neither the respondent 1 (claimant) nor the respondent 2 (atty) responded.

DECISION

Reversed and remanded.

The Texas Department of Insurance, Division of Workers' Compensation (Division) Order for Sequence No. 87, dated May 14, 2015, grants attorney's fees to the claimant's attorney for travel time and attendance at a BRC held on November 10, 2014. The standard for review in an attorney's fees case is abuse of discretion. Appeals Panel Decision (APD) 061189, decided July 24, 2006. This case involves a claimant's attorney's fees in a supplemental income benefits dispute, see Section 408.147(c) and 28 TEX. ADMIN. CODE § 152.1(f) (Rule 152.1(f)).

Division records indicate that a BRC was held on November 10, 2014, and was continued after 20 minutes. The amount of time requested by the claimant's attorney was 45 minutes. Given the discrepancy between the actual time of the BRC reflected in Division records and the amount of time requested for attendance by the claimant's attorney at the same proceeding, we remand the Order to the hearing officer for a hearing regarding these requested fees.

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 Division, 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 APD 060721, decided June 12, 2006.

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

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge