

DWC FORM-152
(Application for Attorney's Fees)

The Division is authorized by the Texas Workers' Compensation Act, Texas Labor Code, Sections 408.221 and 408.222 to approve the fees paid to injured employees' and carriers' attorneys who must file statements of time and expenses for Division consideration (Application for Attorney's Fees, DWC FORM-152).

Injured Employee's Attorney Fees: An injured employee's attorney's fees cannot exceed 25% of the employee's recovery of income benefits. In approving the fee, the Division must consider the guidelines for fees for specific services stated in Rules 152.4 and 152.5.

Carrier's Attorney Fees: A carrier's attorney's fees must be reasonable and necessary, and they must be based on criteria similar to those for an employee's attorney's fees.

If the application for fees meets all guidelines established in the rules, the Division's automated attorney fee processing system will automatically approve the request and issue the order. If all guidelines are not met, the system will flag the request for manual approval by designated Division staff.

If an attorney is requesting a fee which exceeds the guidelines, justification text must be attached to the DWC FORM-152 to support the request.

The employee's attorney, the carrier or the injured employee must request a contested case hearing to dispute approved time or expenses no later than the 15th day after receipt of the Division's order. The employee can request the contested case hearing by contacting the Division in any manner while the attorney or carrier must make the request in writing and provide copies to the other parties, including the employee. However, if the fee ordered by a hearing officer after a contested case hearing is contested, the attorney, employee or carrier must request review by the Appeals Panel. The Division's order to pay attorney fees is binding during the pendency of the dispute of the order. Notice of a proceeding or an appeal does not relieve the carrier's obligation to pay the fee in accordance with the Division's order.

[Texas Workers' Compensation Act, Texas Labor Code, Sections 408.221 and 408.222; Rules 152.1 - 152.5]



APPLICATION FOR ATTORNEY'S FEES

ALL SHADED AREAS FOR DIVISION USE

GENERAL INSTRUCTIONS

To ensure proper payment, complete all applicable sections and FILE THIS FORM WITH THE DIVISION FIELD OFFICE HANDLING THE CLAIM AS SOON AS POSSIBLE AFTER PROVIDING THE SERVICES DESCRIBED. Remember that all shaded areas are for Division use only. Direct any questions to the Division field office handling the claim. All attorneys providing services for the period indicated must sign below. To facilitate processing of your application, a separate DWC FORM-152 should be submitted for each proceeding. Applications for fees related to appellate work should also be submitted separately. A copy of the DWC FORM-152 must be sent simultaneously to your client.

1. CLAIM Number		Sequence #		3. PLEASE INDICATE IF BENEFIT PERCENT REQUESTED IS LESS THAN 25% __ %			
2. Supplemental Income Benefits: Yes No Read Instructions "Explanation of Certain Information" before completing this block. If "Yes," a separate Application for Attorney's Fees must be submitted.							
4. Name of Attorney 1 (Last, First, M.I.)				9. Name of Firm			
5. Attorney 1 Bar Card Number				10. Mailing Address of Firm (Street or P. O. Box)			
6. Representing: Emplo yee Car rier Beneficiar y				11. City/State/ZIP Code		11a. Phone Number ()	
7. Name of Attorney 2 (Last, First, M.I.)				12. Name of Attorney 3 (Last, First, M.I.)			
8. Attorney 2 Bar Card Number				13. Attorney 3 Bar Card Number			
14. Name of Injured Employee (Last, First, M.I.)				17. Date of Injury			
15. Social Security Number of Employee (last 4 digits)				18. Name of Insurance Carrier			
16. Business Name of Employer			Mailing Address of Employer City/State/ZIP Code				
19. Name of Beneficiary (if applicable)				22. Mailing Address of Beneficiary			
20. Social Security Number of Beneficiary				23. City/State/ZIP Code			
21. Beneficiary Type: Spous e Common -law Spouse Child Gr andchild Parents Step- parent Sibling Grandp arents							

RECAP							TOTAL EXPENSES	
	HOURS REQ.	RATE REQ.	AMT. REQ.	HOURS APPROV.	RATE APPROV.	AMT. APPROV.	AMT. REQ.	AMT. APPROV.
Attorney 1 (A1)		\$ /hr	\$		\$ /hr	\$	\$	\$
Attorney 2 (A2)		\$ /hr	\$		\$ /hr	\$	TOTAL FEE	
Attorney 3 (A3)		\$ /hr	\$		\$ /hr	\$		
Legal Assistant (LA)		\$ /hr	\$		\$ /hr	\$	\$	\$
		TOTAL	\$		TOTAL	\$		

I, the undersigned attorney, do hereby certify that I am the attorney for the client identified in this Application for Attorney's Fees, that by submitting this application either by an original signature, stamp signature, encryption or facsimile, it shall have the same effect as an original signature, that I am responsible and liable for any information contained in this submission, that I am duly authorized and qualified in all respects to make this application, that I have read this application and the document attached and every statement, numerical figure and calculation contained herein is within my personal knowledge and is true and correct, that it represents services, charges and expenses provided by me or my legal assistant under my supervision, on behalf of my client from (_____) ^{date} through (_____) ^{date}. I affirm that the above statement and all contained herein is true and correct. If more than one attorney has performed this work, then certification applies to that part of the services provided by me personally or my legal assistant under my supervision.

I am requesting that the fee be paid in lump sum pursuant to Workers' Compensation Rules 152.1(d) and 152.2.

Signature of Attorney (A1)

Signature of Attorney (A2)

Signature of Attorney (A3)

Date

Date

Date



Rule 152.4. Guidelines for Legal Services Provided to Claimants, Beneficiaries and Carriers.

The guidelines outlined in this rule shall be considered by the Division along with the factors and maximum fee limitations set forth in §408.221 and §408.222 of the Texas Labor Code and applicable Worker’s Compensation Rules.

An attorney may request and the Division may approve a number of hours greater than those allowed by these guidelines, if the attorney demonstrates to the satisfaction of the Division that the higher fee was justified based on the Texas Labor Code, §408.221 and §408.222.

The guidelines for legal services provided to claimants, beneficiaries and carriers are as follows:

<u>SERVICE</u>	<u>MAXIMUM TOTAL HOURS</u>
Initial interview and research	1.0
Setting up file; completing and filing forms	0.5
Communications per month (with client, health care providers, other persons involved in the case)	2.5
Direct dispute resolution negotiation with the other party (per month)	3.0
Preparation and submission of an agreement or settlement	1.0
Participation in benefit review conference	Actual time in BRC + 2.0
Participation in benefit contested case hearing	Actual time in CCH + 4.0
Participation in administrative appeal process	5.0

TABLE OF CODES

CATEGORY CODES	ACTOR CODES
AL Appeals	A1 Attorney 1 (primary attorney)
AS Agreements and Settlements	A2 Attorney 2 (secondary attorney)
BR Benefit Review Conference	A3 Attorney 3 (tertiary attorney)
CC Contested Case Hearing	LA Legal Assistant
CF Communications	
IR Informal Resolution	
IS Initial Services	
TT Travel Time	
ACTION PERFORMED CODES	RECIPIENT CODES
AP Attend Proceeding	A Court Reporter
AD Attend Deposition of	B Beneficiary
CF Complete & File Claim Form	C Claimant
DL Draft Letter to	D Disability Determination Officer
DP Draft & File Pleadings/Documents	E Employer
II Initial Interview	H Hearing Officer
LR Performed Legal Research	I Carrier
OC Office Conference with	J Adjuster
PP Prepare for Proceeding	O Ombudsman
RF Review File	P Health Care Provider
RR Receive/Review Documents	R Benefit Review Officer
SF Set Up File	T Other Division Staff
TC Telephone Conference with	W Witness
	Z Other Carrier



DETAIL OF ATTORNEY'S FEES

Claim No _____

Employee's Name _____

INSTRUCTIONS FOR PAGE 3

Refer to the Table of Codes at the bottom of page 2. In columns 1 through 6 list:

- . category of service rendered in column 1 (CATEGORY CODES)
- . date of the service provided in column 2
- . person who provided the service in column 3 (ACTOR CODES)
- . action performed in column 4 (ACTION PERFORMED CODES)
- . recipient of the action in column 5 (RECIPIENT CODES)
- . hours requested in column 6

Report time as whole hours and decimal fractions of hours (e.g. 15 minutes = .25 hours). **IF THE TIME REQUESTED EXCEEDS THE GUIDELINES IN RULE 152.4, ATTACH WRITTEN JUSTIFICATION TO PAGE 1 OF THE APPLICATION.** If additional space is required, copy this page and attach to the application. **Indicate in the upper right corner the number of pages for this section (Detail of Attorney's Fees).** After totalling the hours requested, write the total hours requested for each person who provided legal services (ACTOR CODES) in the appropriate box(es) in the Recap section on page 1. Insert the requested hourly rate(s) and calculate the amount(s) requested.

	(1) Category	(2) Date of Service (MM/DD/YY)	(3) Actor	(4) Action	(5) Recipient	(6) Hours Required	(7) Hours Approved (Division Use)
Ex:	CC	01/01/95	A1	DL	C	00:25	00:25
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
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14.							
15.							
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17.							
18.							
19.							
20.							
21.							
22.							
23.							
24.							



STATEMENT OF ATTORNEY'S EXPENSES

INSTRUCTIONS FOR PAGE 4

Refer to Attorney Expense Codes below. List the Attorney Expense Codes in the Exp. Code column. Write the total expense amount requested in the appropriate box in the Recap section on page 1.

Attorney expenses: Hearing costs, record copies, investigative services, long-distance telephone calls, and travel to benefit review conferences and benefit contested case hearings held more than 25 miles from the attorney's office nearest to the conference or hearing location.

	Date (MM/DD/YY)	Exp. Code	Amount of Expense	Mileage	Amount Approved (Division Use)	Attorney Expense Codes
1.						AF Air Fare AR Auto Rental CC Collect Long-Distance Call from Client CR Court Reporter IN Investigative Services LR Legal Research ML Meals PK Parking RC Costs of Records SP Subpoena TC Long-Distance Telephone Call from Client TD Travel Expense for BRC TE Travel Expense for CCH TF Translator Fee TH Long-Distance Telephone Call to Health Provider TP Long-Distance Telephone TR Long-Distance Telephone Call to Other Party's Representative WF Witness Fees
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
TOTAL \$				TOTAL \$		



INSTRUCTIONS FOR THE APPLICATION FOR ATTORNEY'S FEES (DWC FORM-152)

The Division is authorized by the Texas Workers' Compensation Act, Texas Labor Code, Sections 408.221 and 408.222 to approve the fees paid to claimants' and carriers' attorneys who must file statements of time and expenses for Division consideration (Application for Attorney's Fees, DWC FORM-152). Guidelines for fees for specific services are stated in Rules 152.4 and 152.5. Another DWC FORM-152 must be submitted if there are more than 80 service detail actions on page 3.

Explanation of Certain Information

Page 1, Block 2, Supplemental Income Benefits: Check "Yes" **only** when the claimant prevails at a proceeding on issues of disputed entitlement to Supplemental Income Benefits or the amount of the benefits. The carrier, not the claimant, is liable for attorney's fees incurred as a result of the carrier's unsuccessful dispute. When "Yes" is checked, the application must **only** be for fees and expenses related to the Supplemental Income Benefits issue at the proceeding. A separate DWC FORM-152 must be submitted for other fees and expenses.

Check "No" when other actions related to Supplemental Income Benefits (i.e., completing the Statement of Employment Status, discussing entitlement/amount with the adjuster, writing a letter, etc.) are performed.

Page 1, Blocks 5, 7, and 12: Attorney 1 is the primary attorney to whom the Division order for attorney's fees will be sent. Attorney 2 and Attorney 3 are attorneys within the same firm who perform services for the claimant or carrier. If more than three attorneys perform services, a separate DWC FORM-152 must be submitted.

Page 1, Total, Recap: Total hours requested for each actor (Attorney 1, Attorney 2, Attorney 3, and Legal Assistant) in the Recap block must match the hours detailed for each actor shown on page 3.

Use of Justification Text

DWC Advisory 94-09, dated August 26, 1994, states that the Division's automated attorney fee processing system will not accommodate consideration of line item text or billing statements in the approval process. If the services provided require additional detail or clarification to justify payment, that justification must be in the form of a summary paragraph titled "Justification Text" attached to the DWC FORM-152. Billing statements submitted for review are obsolete.

When guidelines set out in Rules 152.4 and 152.5 are exceeded, justification text must be provided. For example, if you use category code BR (benefit review conference), the Division's automated attorney fee processing system will approve only two hours plus actual time in the conference regardless of the action codes. Additional time will be denied if no justification text is provided. If you are requesting time for attending a proceeding which exceeds the actual time of the proceeding, justification text must be provided.

The purpose of justification text required by Rule 152.3 is **not** to justify the attorney's ability or the reasonableness of the fee requested. Justification text must reference a specific entry to address the particular charges/requests which exceed the guidelines or otherwise need to be explained. For example, rather than writing "the time reflected is time reasonably necessary and required to adequately protect the interest of my client," be more specific with "the BRC was scheduled to begin at 10:00 a.m.; however, it did not begin until 11:00 a.m."

When a fee request includes expenses for travel, you should attach receipts and note the attachment in justification text.

Duplication of Services

The automated system will flag as "duplicate services" such actions as multiple telephone calls made or several letters drafted on the same date by the same attorney or legal assistant to the same recipient. Please provide justification text explaining why the calls were made or letters drafted to the same individual(s); otherwise the actions will be denied.

Denial of Fee

Generally, when there is a dispute about a denied fee and the fee request includes services through a contested case hearing, you must request a review by the Appeals Panel. When the dispute is about services prior to a contested case hearing or for services including appellate work, you must request a contested case hearing. Either request must be made no later than the 15th day after your receipt of the Division's order.

A dispute may be worked out through resubmission of the fee application. Please contact the field office handling the claim where you will be directed to the DWC employee who reviewed the original fee application. This will give you the opportunity to discuss why certain requests were denied.

If you resubmit your fee application, it is important to note in the justification text you are resubmitting a request for time or expenses previously denied and to provide a reason they should be reconsidered for approval. Do not resubmit text on those requests for time and expenses previously approved.

