

APPEAL NO. 060058
FILED MARCH 1, 2006

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 28, 2005. With regard to the issue before him, the hearing officer determined that the appellant (claimant) is entitled to reimbursement for travel expenses for medical treatment at the direction of (Dr. K) from May 25 through June 10, 2005.

The claimant appeals, contending that the hearing officer made a "clerical error" by failing to include travel expenses for medical treatment occurring after June 10, 2005, and that the respondent (self-insured) refuses to pay for expenses incurred after June 10, 2005. The self-insured responds, urging affirmance citing certain Appeals Panel decisions.

DECISION

Reversed and a new decision rendered.

It is undisputed that the claimant, a lineman, sustained second degree burns in a compensable electrical flash burn injury on _____. The claimant was initially treated at a local hospital. The hearing officer in the Background Information portion of his decision recites the events leading to the claimant's referral to Dr. K, a burn specialist associated with (P Hospital), which the hearing officer commented was a distance greater than 20 miles from the claimant's residence. The carrier apparently approved the referral if Dr. K would "become the claimant's treating doctor," a condition met by the claimant. The claimant was seen by Dr. K, May 26, June 9th, July 28th and September 8, 2005. In evidence are Requests For Travel Reimbursement dated June 25, 2005, for travel on May 25 through 27, 2005 and travel on June 9, 2005, and another Request For Travel Reimbursement dated September 8, 2005, for travel on July 27th and September 8, 2005. Also in evidence are hotel receipts for overnight stays on May 26, June 9th and July 27, 2005. There were also meal receipts dated June 9th and June 10, 2005, as well as a parking receipt dated May 26, 2005, and an entry on a credit card bill for a meal at a seafood restaurant on May 26, 2005. Also in evidence are letters dated August 8th and October 18, 2005, from Dr. K attesting to the necessity of having the claimant treated at "a qualified burn center" and that "[d]ue to the severity of his injuries and acute distress disorder [the claimant] was unable to travel to and from his home on the same day."

The hearing officer, in the Background Information portion of his decision addresses Dr. K's letters and comments that "the Claimant only testified as to his circumstances and condition after the first two appointments, and did not present any evidence of expenses in connection with the fourth appointment in September 2005." The hearing officer further commented that:

The claimant presented sufficient evidence that the additional lodging and food expenses were reasonable for the first two appointments, in light of the extent of the Claimant's injuries and the symptomology he was experiencing at the time of the appointments. However, he presented insufficient evidence to substantiate the need for extended stays in connection with the third and fourth appointments with [Dr. K].

With regard to the two lists of doctors that the self-insured submitted in an attempt to show that reasonable medical care was available closer to the claimant's residence than P Hospital, the hearing officer commented that it was "abundantly clear" that the doctors on the self-insured's lists could not provide the complete treatment required by the claimant. The hearing officer concluded his comments by saying:

The doctor list from the carrier's representative at the hearing was simply a list of doctors, with no indication of their specialties, although some of them are recognized as spine specialists—clearly not doctors who would be qualified to provide the care needed by the Claimant in this case.

The hearing officer made the following specific Findings of Fact:

2. The medical care required by the Claimant for his compensable injury, which was being provided by [Dr. K], was not reasonably available within twenty miles of the Claimant's residence.
3. It was reasonable for the Claimant to travel to [P Hospital] in (City) to receive treatment and medical care from [Dr. K], M.D.
4. The expenses for overnight hotel stays and meals in connection with the Claimant's first two appointments with [Dr. K], M.D. were reasonable due to the extent and nature of the Claimant's injuries and ongoing symptomology at the time of the appointments.

The hearing officer concluded in his Conclusion of Law that:

3. The Claimant is entitled to reimbursement for travel expenses for medical treatment at the direction of [Dr. K] from May 25 through June 10, 2005.

The carrier apparently reads the Conclusion of Law and Decision portion to mean that the claimant is entitled to mileage and hotel/meal expenses only through June 10, 2005, and not thereafter. We disagree. We believe that the hearing officer has made it abundantly clear that the claimant's entire care by Dr. K at P Hospital was reasonably necessary to obtain specialized medical care and that such specialized medical treatment for the compensable injury was not reasonably available within 20 miles of the claimant's residence. See 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6). We believe that the determination that the claimant was entitled to reimbursement for travel

expenses for medical treatment at the direction of Dr. K from May 25 through June 10, 2005, perhaps referred to the hotel and meal expenses only. Pursuant to Rule 134.6(c), when an injured employee's travel expenses reasonably include food and lodging, the carrier shall reimburse for the actual expenses not to exceed the current rate for state employees on the date the expense is incurred.

We reverse the hearing officer's decision on entitlement to reimbursement for travel expenses as being limited for the period of May 25 through June 10, 2005. We note that there were no receipts or claims for a hotel stay for the September 8, 2005, visit or meal expenses for the last two visits in July and September 2005. We render a new decision that the claimant is entitled to reimbursement for travel expenses for medical treatment at the direction of Dr. K to include mileage reimbursement of 179 miles one way (358 miles round trip) for four visits on May 26, June 9th, July 28th and September 8, 2005, plus lodging for the visits on May 26, June 9th and July 28th and for meal expenses for meals on May 26, June 9th and 10th, 2005.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

(NAME)
(ADDRESS)
(CITY), TX (ZIP CODE).

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge