

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

**ISSUE**

A benefit contested case hearing was opened on October 26, 2007, and closed on December 7, 2007, to decide the following disputed issue:

1. Whether the preponderance of the evidence is contrary to the Medical Fee Dispute Resolution Findings and Decision (MDRO) that the health care provider is entitled to additional reimbursement under CPT Code 95999: "the amount 1996 MFG Surgery Ground Rule V, B, 1 plus applicable accrued interest per Division Rule 134.803"?

**PARTIES PRESENT**

Carrier appeared and was represented by attorney. Neither the health care provider nor claimant appeared, and neither the health care provider nor the claimant responded to a 10-day letter.

**BACKGROUND**

The Health Care Provider and the Claimant did not appear for the Contested Case Hearing scheduled for October 26, 2007. A letter was sent to the Health Care Provider and Claimant on October 26, 2007, offering both an opportunity to request that the hearing be reset to permit the presentation of evidence on the disputed issue. Neither responded to the letter. Carrier presented its evidence and argument that the Center for Medicare and Medicaid Services (CMS) policies rather than the Texas 1996 Medical Fee Guidelines (MFG) apply. CMS adopted a Local Medical Review Policy (LMRP). The LMRP excludes CPT Code 95999 from coverage because the procedure is not considered medically necessary. Therefore, under CMS policies, the billed services are neither covered nor reimbursable. Carrier also noted the MDRO erroneously cited the MFG Surgical Ground Rules, V, B, 1 to justify its decision in that this section of the MFG deals with sterile trays and CPT Code 95999. Therefore, the greater weight of evidence is contrary to the MDRO and should be reversed.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

**FINDINGS OF FACT**

1. The true corporate name of the insurance carrier is American Home Assurance Company, and the name and address of its registered agent for service of process is Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.
2. The Commission sent a single document stating the true corporate name of the Carrier and

name and street address of Carrier's registered agent with the 10-day letter to the Claimant and the Health Care Provider at addresses of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.

3. On \_\_\_\_, the Claimant lived within seventy-five miles of the (City) Field Office.
4. On \_\_\_\_, the Claimant was an employee of Employer.
5. On \_\_\_\_, the Employer was a subscriber to workers' compensation.
6. The Claimant and Health Care Provider failed to appear for the October 26, 2007 Contested Case Hearing and failed to respond to the 10-day letter.
7. The preponderance of the evidence is contrary to the Medical Fee Dispute Resolution Findings and Decision (MDRO) that the health care provider is entitled to additional reimbursement under CPT Code 95999: "the amount 1996 MFG Surgery Ground Rule V, B, 1 plus applicable accrued interest per Division Rule 134.803".

### **CONCLUSIONS OF LAW**

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue was proper in the (City) Field Office.
3. The health care provider is not entitled to additional reimbursement under CPT Code 95999: "the amount 1996 MFG Surgery Ground Rule V, B, 1 plus applicable accrued interest per Division Rule 134.803".
4. Claimant and the Health Care Provider did not have good cause for failure to appear for the Contested Case Hearing.

### **DECISION**

The health care provider is not entitled to additional reimbursement under CPT Code 95999: "the amount 1996 MFG Surgery Ground Rule V, B, 1 plus applicable accrued interest per Division Rule 134.803". Claimant and the Health Care Provider did not have good cause for failure to appear for the Contested Case Hearing.

### **ORDER**

Under this Decision and Order, Carrier is not liable for the payment of additional reimbursement.

Signed this 7th day of December, 2007.

Charles T. Cole

Hearing Officer