

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 held on November 29, 2007 and May 2, 2008, to decide the following disputed issue:

Whether the preponderance of the evidence is contrary to the Medical Fee Dispute Resolutions Findings and Decision that Dr. P is entitled to be paid \$350.00 for services provided on May 26, 2006?

PARTIES PRESENT

Petitioner/Carrier appeared and was represented by MS, attorney. Respondent/Provider did not appear for the hearing on November 29, 2007. Respondent/Provider appeared for the prehearing conference on March 7, 2008 and the contested case hearing on May 2, 2008, represented by MR, layperson.

BACKGROUND

Respondent/Provider did not appear for the hearing scheduled on November 29, 2007, at 9:30 a.m. A letter was sent to the Respondent/Provider on February 6, 2008, offering him an opportunity to request that the hearing be reset to present evidence on the disputed issue. On February 11, 2008, Respondent/Provider contacted the Division to request that the hearing be reset. Respondent/Provider asserts that he did not receive notice of the hearing for November 29, 2007. The evidence, however, was neither credible nor persuasive in that regard. Respondent/Provider did not have good cause for failing to appear for the hearing on November 29, 2007.

It is undisputed that Dr. P performed a designated doctor examination on May 26, 2006, for the compensable injury. At issue in this case is whether Dr. P submitted a claim for payment to the Petitioner/Carrier within 95 days after the date on which health care services were provided to the Claimant, as required by Section 408.027(a) and Rule 133.20(b). The persuasive evidence establishes that Dr. P first submitted a bill to Petitioner/Carrier on September 7, 2006, more than 95 days after the date of service.

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

FINDINGS OF FACT

1. The parties stipulated to the following facts:

- A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 - B. On _____, Claimant was the employee of (employer).
 - C. On _____, Claimant sustained a compensable injury.
 - D. Dr. P sought payment in the amount of \$350.00 for a designated doctor examination performed on May 26, 2006, for the compensable injury.
- 2. The Division delivered to Respondent/Provider a single document stating the true corporate name of Petitioner/Carrier, and the name and street address of Petitioner/Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
 - 3. Respondent/Provider did not have good cause for failing to appear for the hearing on November 29, 2007.
 - 4. Dr. P first submitted a bill to Petitioner/Carrier on September 7, 2006, more than 95 days after the date on which health care services were provided to the Claimant.

CONCLUSIONS OF LAW

- 1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
- 2. Venue is proper in the (City) Field Office.
- 3. The preponderance of the evidence is contrary to the Medical Fee Dispute Resolutions Findings and Decision that Dr. P is entitled to be paid \$350.00 for services provided on May 26, 2006.

DECISION

The preponderance of the evidence is contrary to the Medical Fee Dispute Resolutions Findings and Decision that Dr. P is entitled to be paid \$350.00 for services provided on May 26, 2006.

ORDER

Petitioner/Carrier is not liable for benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021.

The true corporate name of the insurance carrier is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**COUNTY CLERK
(ADDRESS)
(CITY), TEXAS (ZIP CODE)**

Signed this 2nd day of May 2008.

Edward Vilano
Hearing Officer