

**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 May 5, 2008, and closed on May 29, 2008, to decide the following disputed issue:

1. Whether Carrier is liable to JP for services rendered to the Claimant on June 30, 2004?

**PARTIES PRESENT**

Carrier appeared and was represented by HW, lay representative. Respondent/Subclaimant did not appear and did not respond to a 10-day letter.

**BACKGROUND**

The Respondent/Subclaimant, a health care provider, did not appear for the Contested Case Hearing scheduled for May 5, 2008. Letters were sent to the Respondent/Subclaimant at two different addresses on May 6, 2008, offering him an opportunity to request that the hearing be reset to permit him to present evidence on the disputed issue. Respondent/Subclaimant did not respond to the letter.

Under the terms of an agreement entered into between the Carrier and the health care provider, the services were provided through a network. On March 24, 2008, a Medical Fee Dispute Resolution Findings and Decision was issued ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004. The decision was based on incorrect information provided to the Division in a phone call to the Carrier in which the Division was mistakenly informed that a Network PPO contractual agreement did not exist with the health care provider on the disputed date of service. Carrier place in evidence documents which demonstrated that the service on June 30, 2004 was provided through a network in effect from February 25, 2000, through December 22, 2005. Therefore, there was no jurisdiction for Medical Fee Dispute Resolution of the Division of Worker's Compensation to issue the Medical Fee Dispute Resolution Findings and Decision.

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 Division 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 Respondent/Subclaimant and Claimant at their addresses of record. That document was

admitted into evidence as Hearing Officer Exhibit Number 2.

2. On \_\_\_\_\_, the Claimant lived within seventy-five miles of the (City) Field Office.
3. On \_\_\_\_\_, the Claimant was an employee of (Employer) when he sustained a compensable injury.
4. On \_\_\_\_\_, the Employer was a subscriber to workers' compensation.
5. The Respondent/Subclaimant failed to appear for the May 4, 2008 Contested Case Hearing and failed to respond to the 10-day letter.
6. The services provided to Claimant on June 30, 2004, by the Respondent/Subclaimant were under the terms of a contractual network between the health care provider and the Carrier.
7. Carrier properly denied reimbursement of the fees described in the Medical Fee Dispute Resolution Findings and Decision dated March 24, 2008 ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004.
8. No evidence was received that showed that the Requestor/Subclaimant had good cause for his failure to appear for the Contested Case Hearing.

#### **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 Texas Department of Insurance, Division of Worker's Compensation, Medical Fee Dispute Resolution, did not have jurisdiction to issue the Medical Fee Dispute Resolution Findings and Decision dated March 24, 2008 ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004.
4. The Medical Fee Dispute Resolution Findings and Decision dated March 24, 2008 ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004 is void and of no force and effect.
5. Respondent/Subclaimant did not have good cause for his failure to appear for the Contested Case Hearing.

#### **DECISION**

The Texas Department of Insurance, Division of Worker's Compensation, Medical Fee Dispute Resolution, did not have jurisdiction to issue the Medical Fee Dispute Resolution

Findings and Decision ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004. The Medical Fee Dispute Resolution Findings and Decision ordering Carrier to pay \$400.56 of \$769.32 sought by the health care provider for services rendered to the Claimant on June 30, 2004 is void and of no force and effect. Respondent/Subclaimant did not have good cause for his failure to appear for the Contested Case Hearing.

### **ORDER**

The Division of Workers' Compensation does not have jurisdiction to determine Carrier's liability for the medical benefits under the Medical Fee Dispute Resolution Findings and Decision above. Claimant remains entitled to medical benefits for the compensable injury in accordance with §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

**HW  
(ADDRESS)  
(AUSTIN), TEXAS (ZIP CODE)**

Signed this 29th day of May, 2008.

Charles T. Cole  
Hearing Officer