

**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 contested case hearing was held on July 24, 2008, to decide the following disputed issue:

1. Whether the health care provider is not entitled to additional reimbursement of \$1,030.75 for implants used on May 23, 2007?

**PARTIES PRESENT**

Petitioner/Carrier appeared and was represented by JL, attorney. Respondent/ Subclaimant appeared and was represented by SK, lay representative.

**BACKGROUND INFORMATION**

Surgery was performed on Claimant on May 23, 2007, to repair a torn rotator cuff. At least one implant was used. On June 4, 2007, the health care provider (the HCP) submitted to Carrier a HICF form which indicated that one unit for CPT Code L8699 along with other codes that are no longer in dispute. Carrier paid \$736.25 based upon the HCP submitting an invoice for one implant. The cost for one implant was calculated by multiplying \$589.00 x 125% using Medicare's conversion factor under Rule 134.402 for calculation of facility services provided by an ambulatory surgical center (ASC).

The Medical Fee Dispute Resolution Findings and Decision issued on May 9, 2008, ordered Carrier to pay the additional reimbursement of \$1,030.75 and relied upon Rule 134.402 (e)(4) which provides:

"The carrier shall reimburse all surgically implanted, inserted, or otherwise applied devices at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) actually paid for such device to the manufacturer by the ASC."

To reach the additional reimbursement ordered of \$1,030.75, the total invoice for three implants was calculated by multiplying 3 x \$589.00 for a total of \$1,767.00. Then the \$736.25 which Carrier paid was deducted from \$1,767.00 leaving a balance due of \$1,030.75 which Carrier has appealed herein.

Rule 133.20(b) states, "A health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." It was not until the HCP filed its DWC-60 on February 8, 2008, with an invoice attached to it that the HCP first even vaguely indicated an assertion that it was seeking reimbursement for more than one implant unit. The invoice to the HCP attached to the DWC-60 was for five implants, and \$589.00 was circled with a handwritten notation of "x3". There is nothing in the Operative Report indicating the number of implants.

Because the HCP did not timely or properly submit a medical bill for in excess of one implant, the health care provider is not entitled to additional reimbursement of \$1,030.75 for implants used on May 23, 2007.

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 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), when he sustained a compensable injury.
2. Carrier delivered to the health care provider a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. The health care provider did not timely and properly submit a medical bill for the additional reimbursement of \$1030.75 until after the expiration of the 95th day after the date the services were provided.

### **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 health care provider is not entitled to additional reimbursement of \$1,030.75 for implants used on May 23, 2007.

### **DECISION**

The health care provider is not entitled to additional reimbursement of \$1,030.75 for implants used on May 23, 2007.

### **ORDER**

Carrier is not liable for the additional reimbursement at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 N. ST. PAUL STREET  
DALLAS, TEXAS 75201**

Signed this 25th day of July, 2008.

Charles T. Cole  
Hearing Officer