

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.

ISSUES

A contested case hearing was held on August, 2008, to decide the following disputed issue:

1. Is the Petitioner entitled to reimbursement in the amount of \$250.00 plus applicable accrued interest for services rendered to the Claimant on January 7, 2008, and on January 9, 2008?

PARTIES PRESENT

Petitioner/Subclaimant appeared and was represented by Dr. MW, attorney. Claimant was represented by attorney BF. Respondent/Carrier appeared and was represented by TW, attorney.

BACKGROUND INFORMATION

Claimant was approved for a chronic pain management program with (Health Care Provider). This is a medical fee dispute. The disputed dates of service are for service dates of January 7, 2008, and for January 9, 2008. The Health Care Provider billed for one hour on January 7, 2008, under CTP Code 97799-CP-CA, in the amount of \$125.00, and also billed for one hour on January 9, 2008, under CTP Code 97799-CP-CA, for \$125.00. Carrier denied one hour of service on January 7, 2008, in the amount of \$125.00, and one hour of service on January 9, 2008, for \$125.00.

On the Explanation of Benefits provided, Carrier denied one hour on January 7, 2008, because the one hour was undocumented. Carrier also denied one hour on January 9, 2008, because the one hour was undocumented. The Health Care Provider resubmitted the billed hours for reconsideration, but still did not provide documentation. Again, the services billed were denied by the Carrier.

On April 14, 2008, a request for Medical Fee Dispute Resolution was received in MFDR, for dates of service of January 7, 2008, and January 9, 2008. The dispute was submitted timely and eligible for review. In evidence as Petitioner Exhibit G is the Medical Fee Dispute Resolution Findings and Decision signed June 20, 2008. Part II of the decision noted that Requestor's rationale for increased reimbursement noted on the table of disputed services, states, "Documentation supports the hours billed on claim." Principle documentation included: 1) DWC 60; 2) Total Amount Sought - \$250.00; 3) CMS 1500s, and 4) EOBs. Part III of the decision reads as follows:

The Respondents Position Statement, dated May 1, 2008, states in part, "...The carrier bases its denial reasons for the two hours of service on the fact that no supporting documentation was received. As you will note for the two dates of service in question, sufficient documentation was received for the other seven

hours of service performed on January 7, 2008 and January 9, 2008. However, the two hours of 'Individual Session' have no supporting documentation. On the Weekly Progress Report, no time is listed during which the 'Individual Session' was performed. Further more, the documentation received evidences summaries of the topics discussed or exercises performed for all of the other billed services. No documentation is presented showing what was conducted or with whom during the 'Individual Session' on the dates in question...."

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division Rule 134.202, titled *Medical Fee Guideline* effective for professional medical services rendered on or after August 1, 2003, set out the reimbursement guidelines. Rule 134.202(e)(5)(E)(ii-ii), states in part, "Program shall be billed and reimbursed using the 'Unlisted physical medicine/rehabilitation service or procedure' CPT code with modifier 'CP' for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Program shall add 'CA' as a second modifier. Reimbursement shall be \$125.00 per hour. Units of less than 1 hour shall be prorated in 15-minute increments. The Medical Dispute Resolution Officer determined that review of the EOBs reflected that the carrier paid for 7 hours at \$125.00 per hour for a CARF accredited program for a total payment of \$875.00; therefore, no further reimbursement was recommended to the Requestor for the disputed charges. The decision was that Requestor was not entitled to additional reimbursement for the services involved in the dispute.

Petitioner stated at the CCH held on July 28, 2008, that it submitted documentation for the dates of service in question. Petitioner presented as its Exhibit E, its Medical Fee Dispute Resolution Request (Form DWC060). Also attached to its request, as Exhibit F, is documentation for the two dates of service. For January 7, 2008, the documentation states that on January 7, 2008, from 2-3 p.m., one hour of individual therapy was provided to Claimant. For January 9, 2008, the documentation states that on January 9, 2008, one hour of individual therapy from 10-11 a.m. was provided to Claimant. Also attached is documentation from KW with regard to the date of service for January 7, 2008. On January 7, 2008, from 9-10 a.m., it is documented that Claimant attended a "Psycho-Educational Pain Management Class", and the pain management class topic was "increasing pain tolerance." It was also documented that various factors associated with increasing pain tolerance and decreased pain tolerance were discussed and explored. Attached as Petitioner Exhibit F, page 12 is documentation that on January 9, 2008, from 9:00 a.m. until 10:00 a.m., there was topic discussion with the pain management parties involving pain classification and its basis of treatment planning. This involved discussions of neuropathic and nociceptive pain, and this involved acute, chronic, and recurring pain.

Petitioner requested a contested case hearing, and argued at the contested case hearing that it provided the Medical Dispute Resolution Officer the documentation for the two hours in dispute, and also provided the same documentation at the contested case hearing held on July 28, 2008. Carrier argued at the contested case hearing that the applicable rules do not say that a Health Care Provider can add additional or supporting documentation at either the MDR level or the contested case hearing level to clear up the dispute. Carrier referenced Rules 133.201(b) and (c) as well as Rule 133.307. Carrier also stated that after reviewing the additional supporting documentation for the dates of service in question, that it seemed to be sufficient.

Rule 133.307 (F) provides that a Health Care Provider request for medical dispute resolution shall include a position statement of the disputed issues that shall include: (i) a description of the

health care for which payment is in dispute; (ii) the requestor's reasoning for why the disputed fees should be paid or refunded; (iii) how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues, and (iv) how the submitted documentation supports the requestor position for each disputed fee issue.

In the instant case, Petitioner submitted the supporting documentation to the Medical Dispute Resolution Officer and again at the contested case hearing. Such supporting documentation is sufficient to support a finding for reimbursement for the requested dates of service. Petitioner is entitled to be reimbursed in the amount of \$250.00.

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) and sustained a compensable injury.
2. Carrier delivered to Claimant 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. As a result of the _____, compensable injury, Claimant was approved for a chronic pain management program at (Health Care Provider), Health Care Provider/Petitioner.
4. Petitioner provided Claimant one (1) hour of individual therapy in the amount billed of \$125.00 on January 7, 2008, and has sufficiently documented such service.
5. Petitioner provided Claimant one (1) hour of individual therapy in the amount billed of \$125.00 on January 9, 2008, and has sufficiently documented such therapy.
6. Petitioner sufficiently documented the total of two (2) hours of individual therapy provided to Claimant for dates of service on January 7, 2008, and on January 9, 2008, and is entitled to reimbursement from the Carrier.

CONCLUSIONS OF LAW

1. Venue is proper in the (City) Field Office.
2. Petitioner is entitled to reimbursement in the amount of \$250.00 plus applicable accrued interest for services rendered to the Claimant on January 7, 2008, and on January 9, 2008.

DECISION

Petitioner is entitled to reimbursement in the amount of \$250.00 plus applicable accrued interest for services rendered to the Claimant on January 7, 2008, and on January 9, 2008.

ORDER

Carrier is ordered to pay benefits in accordance with this decision, the Texas Workers' Compensation Act, and the Commissioner's Rules. Accrued but unpaid medical benefits shall be paid in a lump sum with interest as provided by law.

The true corporate name of the insurance carrier is **SERVICE LLOYDS INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**JOSEPH KELLEY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755**

Signed this 1st day of August 2008

Cheryl Dean
Hearing Officer