

MEDICAL CONTESTED CASE HEARING NO. 09055
MDR NO. M4-08-6297-01

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 November 25, 2008, to decide the following issue:

1. Whether the preponderance of the evidence is contrary to the decision of Medical Review that Petitioner/Subclaimant is not entitled to additional reimbursement for the dates of service of June 19, 2007, June 22, 2007, and June 26, 2007, in the total amount of \$1,720.00 plus applicable accrued interest?

PARTIES PRESENT

Claimant's appearance was waived by the parties. Petitioner/Subclaimant appeared and was represented by AU, lay representative. Carrier/Respondent appeared and was represented by JC, attorney.

BACKGROUND INFORMATION

This is a medical fee dispute. On June 19, 2007, June 22, 2007, and on June 26, 2007, the Petitioner/Subclaimant (Health Care Provider) provided medical health care services to Claimant in the form of chronic pain management that was pre-authorized. For the health care services provided on June 19, 2007, the Health Care Provider submitted a bill to the Carrier in the amount of \$800.00, which was denied due to "Lack of Sufficient Documentation of Services Rendered."

For the health care services provided on June 22, 2007, the Health Care Provider submitted a bill to the Carrier in the amount of \$800.00, and Carrier paid \$680.00, but did not pay \$120.00. Carrier stated at the hearing, that the \$680.00 it did pay was an error on its part because the correct modifier was not used. For the health care services provided on June 26, 2007, the Health Care Provider submitted a bill to the Carrier in the amount of \$800.00, which was denied.

Health Care Provider requested reconsideration of the bills in dispute, and after reconsideration, the denials were upheld. Health Care Provider then requested Medical Fee Dispute Resolution. In Medical Fee Dispute Resolution Findings and Decision (M4-08-6297-01), it was decided that Health Care Provider did not bill with an appropriate modifier, and no reimbursement was recommended for dates of service for June 19, 2007, June 22, 2007, and June 26, 2007. The Carrier's argument at the Medical Fee Dispute Resolution level and at the CCH held on November 25, 2008, was that "CP" modifier was not used with CPT code.

The bill for date of service for June 19, 2007, (Carrier Exhibit 1, page 4), reflects a CPT code of "97799," and for modifier space, there is nothing. The bill for date of service for June 22, 2007,

(Carrier Exhibit 1, page 24), reflects a CPT code of " 97799," and for the modifier space, there is nothing. The bill for date of service for June 26, 2007, (Carrier Exhibit 1, page 41), reflects a CPT code of " 97799, " and for the modifier space, there is nothing.

Texas Labor Code Section 413.011(a-d), titled, *Reimbursement Policies and Guidelines*, and Division Rule 134.202, titled *Medical Fee Guidelines* effective for professional medical services rendered on or after August 1, 2003, set out the reimbursement guidelines. Rule 134.202(e)(5)(E) (i) provides:

Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs

- (i) Program **shall** (emphasis added) be billed and reimbursed using the "unlisted physical medicine/rehabilitation service or procedure" CPT code with modifier "CP" for each hour.

Pursuant to Rule 134.202 for coding, billing, reporting, and reimbursement of professional services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, modes, and values or weight including its coding, billing, and reporting payment policies in effect on the date a serve is provided with any additions or exceptions in this section.

In the instant case, Petitioner/Subclaimant did not properly include the modifier "CP" in its bills for dates of service of June 19, 2007, June 22, 2007, and June 26, 2007. Petitioner/Subclaimant did not meet its burden of proof by a preponderance of the evidence, and is not entitled to be reimbursed for the amount of \$1,720.00 it seeks.

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 an employee of (Employer), and sustained a compensable injury.
2. Carrier delivered to Petitioner/Subclaimant 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. Petitioner/Subclaimant did not include the modifier "CP" in its bill for date of service of June 19, 2007.
4. Petitioner/Subclaimant did not include the modifier "CP" in its bill for date of service of June 22, 2007.
5. Petitioner/Subclaimant did not include the modifier "CP" in its bill for date of service of June 26, 2007.

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. Petitioner/Subclaimant did not properly bill with the correct modifier of "CP" in its bills for dates of service of June 19, 2007, June 22, 2007, and June 26, 2007.
3. The health care provider is not entitled to reimbursement in the amount of \$1,720.00 plus accrued interest for services rendered on June 19, 2007, June 22, 2007, and June 26, 2007.

ORDER

Carrier is not liable for the 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 **TRANSPORTATION INSURANCE COMPANY**, and the name and address of its registered agent for the service of process is:

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

Signed this 26th day of November, 2008.

Cheryl Dean
Hearing Officer