

**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 opened on March 5, 2009, and closed on April 22, 2009, after the parties notified the undersigned hearing officer that they were unable to reach an agreement, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the findings of Medical Fee Dispute Resolution that the health care provider is not entitled to \$889.06 for services rendered to Claimant on \_\_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was represented by MC, lay representative. Carrier appeared and was represented by RT, attorney.

**BACKGROUND INFORMATION**

Claimant sustained a compensable injury on \_\_\_\_\_; and Petitioner provided services to Claimant on \_\_\_\_\_. On December 13, 2007, Petitioner sent its original billing showing a date of service of \_\_\_\_\_, the date prior to the date of injury. According to Petitioner, it sent a proper bill to the self-insured on (date), which is 105 days after the date of service which (date) billing was denied by the self-insured on April 1, 2008.

Under M4-09-4476-01, the fee request was denied because the billing was not submitted timely to the Respondent.

Section 408.027(a) of the Texas Workers' Compensation Act provides,

"A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

There is no provision under the Act or Rules allowing resubmission of an improperly submitted bill after the time period provided for in Section 408.027(a). Because the bill was not properly submitted before the expiration of the 95 day period, the health care provider forfeited the right to reimbursement for that claim for payment.

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. Self-Insured Carrier delivered to Claimant a single document stating the true corporate name of Self-Insured Carrier, and the name and street address of Self-Insured Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. Petitioner did not submit a proper bill to self-insured carrier in the amount of \$889.07 for services provided to Claimant on \_\_\_\_\_, until after the 95th day after the date on which the health care services were provided to 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 not contrary to the findings of Medical Fee Dispute Resolution that the health care provider is not entitled to \$889.06 for services rendered to Claimant on \_\_\_\_\_

### **DECISION**

Self-Insured Carrier/Respondent is not liable to Petitioner for \$889.06 for services rendered to Claimant on \_\_\_\_\_

### **ORDER**

Self Insured Carrier is not liable for the benefits 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 self-insured insurance carrier is **(SELF-INSURED)**, and the name and address of its registered agent for service of process is

For service in person, the address is:

**JB, EXECUTIVE DIRECTOR  
(SELF-INSURED)  
(STREET ADDRESS)  
(BUILDING/FLOOR)  
(CITY), TEXAS (ZIP CODE)**

For service by mail, the address is:

**JB, EXECUTIVE DIRECTOR  
(SELF-INSURED)  
(PO BOX)  
(CITY), TEXAS (ZIP CODE)**

Signed this 22nd day of April, 2009.

Charles T. Cole  
Hearing Officer