

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 held on August 25, 2009, to decide the following disputed issue:

Is the Petitioner/Claimant entitled to reimbursement in the amount of \$2,000.00 for services rendered on _____?

PARTIES PRESENT

Petitioner/Claimant appeared and was represented by CS, attorney.

Responder/Carrier appeared, by telephone, and was represented by RJ, attorney

BACKGROUND INFORMATION

The Claimant sustained an injury on _____ when she fell. Claimant testified that she already had a bridge across her front teeth at the time of the accident but that four of her teeth needed replacing as a result of the accident. Claimant testified that she was unable to pay for the required dental work so she sought medical attention with a dentist in (City), (Country). Dr. A completed the dental work on _____ and charged the Claimant \$2,000.00. Claimant submitted a hand written receipt from Dr. M indicating that she was charged \$2,000.00 for dental work. This document, written in Spanish, was submitted to the insurance carrier for reimbursement. The adjuster responded stating that a dentist in the USA was needed to evaluate the treatment and services provided by the dentist in (Country). Claimant was scheduled for an evaluation with Dr. S at (Dental Provider) who examined the Claimant on November 5, 2008. Dr. S concluded that he could not determine what percentage of the Claimant's symptoms were attributable to the workers' compensation injury and that the dental treatment had been completed. Claimant was unable to obtain any additional information from the dentist in (Country) regarding this claim.

The bill was submitted to MDR on January 6, 2009. The MDR auditor determined that, per Rule 133.307(c)(3)(B&C), the submitted request for medical fee dispute resolution does not contain all the elements to render a decision. Elements missing from the request are (B) explanation of the disputed amount that includes a description of the health care, why the disputed amount should be refunded or reimbursed, and how the submitted documentation supports the explanation of each disputed amount; (C) proof of employee payment (including copies of receipts, provider billing statements or similar documents). The Claimant submitted only a statement written in Spanish indicating that she was charged \$2,000.00 by a dentist in (City), (Country), a statement (also in Spanish) from Dr. A indicating the Claimant was incapacitated for 10 days after the injury and loan documents verifying that she borrowed \$2,000.00 on November 27, 2007.

Pursuant to Rule 133.307 (c), requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division. Requestors shall file two legible copies of the request with the Division. (3) an employee who has paid for health care may request medical fee dispute resolution of a refund or reimbursement request that has been denied. The employee's dispute request shall be sent to the MDR Section by mail service, personal delivery or facsimile and shall include: (A) the form DWC-60 table listing the specific disputed health care in the form and manner prescribed by the Division; (B) an explanation of the disputed amount that includes a description of the health care, why the disputed amount should be refunded or reimbursed, and how the submitted documentation supports the explanation for each disputed amount; (C) Proof of employee payment (including copies of receipts, provider billing statements, or similar documents); (D) a copy of the carrier's or health care provider's denial of reimbursement or refund relevant to the dispute, or, if no denial was received, convincing evidence of the employee's attempt to obtain reimbursement or refund from the carrier or health care provider.

Pursuant to Rule 133.270 (b), the injured employee's request for reimbursement shall be legible and shall include documentation or evidence (such as itemized receipts) of the amount the injured employee paid the health care provider. Pursuant to Rule 134.1(e), medical reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with: (1) the Division's fee guidelines; (2) a negotiated contract; or (3) in the absence of an applicable fee guideline or a negotiated contract, a fair and reasonable reimbursement amount as specified in subsection (f) of this section. (f) Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.

The Claimant, in this case, submitted a hand-written receipt (in Spanish) from Dr. M indicating that she was charged \$2,000.00 for dental work. Dr. A provided a "CERTIFICATE DE ATENCION MEDICA" dated _____ (also in Spanish) indicating the Claimant was incapacitated for 10 days after injury. None of the documents are in English nor do they explain what type of dental work was performed or whether the treatment provided was necessary as a result of the compensable injury. The DWC-60 submitted by the Claimant documents the disputed date of service as "November 28, 2008" which is incorrect. Based on the evidence presented, the Claimant failed to prove that she complied with the Division rules for reimbursement of the \$2,000.00 she paid out-of-pocket-to the dentist in (City), (Country) and the preponderance of the evidence is not contrary to the determination of MDR that the Claimant is not entitled to reimbursement in the amount of \$2,000.00 pursuant to Rule 133.307.

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).
- C. Claimant sustained a compensable injury on _____.
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. The medical fee dispute resolution officer determined that the Claimant was not entitled to reimbursement in the amount of \$2,000.00 for the date of service of November 28, 2008 (date of disputed service is actually _____).
4. The Claimant failed to submit the request for reimbursement of medical services obtained in (Country) pursuant to Rule 133.307(c)(B&C).

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 the Medical Fee Dispute Resolution that the Claimant is not entitled to reimbursement in the amount of \$2,000.00 for the date of service of _____.

DECISION

Claimant is not entitled to reimbursement in the amount of \$2,000.00 for the date of service of _____.

ORDER

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 insurance carrier is **EMPLOYERS INSURANCE COMPANY OF WAUSAU** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TX 78701**

Signed this 26th day of August, 2009.
Carol A. Fougerat
Hearing Officer