

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 November 12, 2008, with SF as the presiding hearing officer. Respondent was not present and the case was continued. The Contested Case Hearing was held to conclusion on May 4, 2009, with JN as the presiding hearing officer. The following disputed issue was decided:

Whether the preponderance of the evidence is contrary to the decision of Medical Fee Dispute Resolution that Dr. M, D.C. is entitled to receive \$350.00 as reimbursement for health care chiropractic services rendered June 13, 2005 under CPT Code 99455-WP-V3?

PARTIES PRESENT

Petitioner/Carrier appeared and was represented by SC, attorney. Respondent did not appear. Claimant chose not to participate and was excused.

BACKGROUND INFORMATION

On June 13, 2005, upon referral from Dr. Mc, treating doctor, Claimant was seen by Dr. M, D.C. to determine the date of maximum medical improvement (MMI) and impairment rating (IR). The carrier was billed \$350.00 for CPT Code 99455-WP-V3. The respondent/provider submitted a request for reconsideration to the carrier. This was subsequently denied. The respondent requested Medical Fee Dispute Resolution (MFDR) on January 6, 2008. In a decision dated April 1, 2008 a MFDR reviewer found in favor of Dr. M and ordered the carrier to remit \$350.00 for reimbursement of the disputed services. Carrier appealed the decision, requesting a Contested Case Hearing.

Carrier does not dispute the amount of the payment billed by Respondent. Rather, Carrier contended that the June 13, 2005 examination was not medically necessary since Dr. S, referral from the initial treating doctor, had already certified Claimant at MMI with an IR. Carrier requested this fee dispute issue to be dismissed so the Medical Dispute Resolution (MDR) process with an Independent Review Organization (IRO) can be initiated by Respondent. On April 4, 2005 DWC approved a change of treating doctors to Dr. Mc. There was no evidence of disputes as to the change of treating doctors, or subsequent medical treatment. Rule 180.22(a)(3) provides that a healthcare provider shall provide reasonable and necessary health care that enhances the ability of the employee to return to or retain employment. By examining Claimant, and determining whether he had reached MMI with an IR, Dr. M, who was referred from the treating doctor, was providing a DWC specific service, and hence the examination did not require pre-authorization. Therefore, this medical fee issue is ripe for adjudication.

According to the MFDR Findings and Decision, the requestor/provider is a doctor selected by the treating doctor acting in place of the treating doctor; therefore the examination was correctly coded using CPT Code 99455. Per Rule 134.202(e)(6)(C)(i)(I)(II) the modifier V3 refers to the applicable office visit. The appropriate reimbursement for the evaluation with modifier V3 is \$67.20. According to Rule 134.202(e)(6)(D)(II) the MAR for the first musculoskeletal body area, if full physical evaluation, with range of motion (ROM) performed, is \$300.00. The MFDR reviewer found that Requestor documented ROM calculations to determine the IR of the injured right ankle. Thus \$300.00 plus the MMI evaluation of \$67.20 equals \$367.20. On the DWC-60, the Requestor sought MFDR in the amount of \$350.00, which is less than he could have requested. Per Rule 134.202(d)(2) \$350.00 was correctly recommended by the MFDR reviewer to be paid.

The greater weight of the evidence is not contrary to the findings of MFDR review and the carrier is liable for \$350.00 for the service performed on June 13, 2005 and billed under CPT Code 99455-WP-V3.

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 fact:
 - A. On _____, Claimant was the employee of (Employer), when he sustained a compensable injury.
2. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
3. Carrier delivered to Claimant and 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.
4. The June 13, 2005 examination for purposes of determining a MMI date and IR, by Dr. M, referral from the treating doctor, does not require preauthorization.
5. On April 1, 2008, Medical Fee Dispute Resolution issued a decision that Dr. M, D.C. was entitled to fees in the amount of \$350.00 as reimbursement for health care services rendered June 13, 2005 under CPT Code 99455-WP-V3.

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 decision of Medical Fee Dispute Resolution, rendered on April 1, 2008 that Dr. M, D.C. is entitled to the amount of

\$350.00 as reimbursement for health care chiropractic services rendered June 13, 2005 under CPT Code 99455-WP-V3 and the carrier is liable for \$350.00.

DECISION

Dr. M, D.C. is entitled to fees in the amount of \$350.00 as reimbursement for health care chiropractic services rendered June 13, 2005 under CPT Code 99455-WP-V3.

ORDER

Carrier is liable to the health care provider for reimbursement at issue in this hearing. Claimant remains entitled to medical benefits for the _____ compensable injury, in accordance with Texas Labor Code Ann. §408.021.

The true corporate name of the insurance carrier is **TRAVELERS PROPERTY & CASUALTY COMPANY** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY d/b/a
CSC - LAWYERS INCORPORATING SERVICE COMPANY
701 BRAZOS STREET #1050
AUSTIN, TEXAS 78701**

Signed this 6th day of May, 2009.

Judy L. Ney
Hearing Officer