

**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 February 16, 2010, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Medical Fee Dispute Resolution Findings and Decision that JTD Jr., M.D. is not entitled to receive \$725.00 for services rendered on \_\_\_\_\_?

**PARTIES PRESENT**

Petitioner, Dr. D, M. D., appeared without representation.  
Respondent/Carrier appeared and was represented by RT, attorney.

**BACKGROUND INFORMATION**

Petitioner, Dr. D, M. D., was assigned by the Division as designated doctor to evaluate the claimant and determine whether the claimant had reached maximum medical improvement, and if so, the impairment rating. Dr. D performed these services on 8/28/06 and submitted his request for payment with the carrier on 10/1/06 utilizing the American Medical Association Physician's Current Procedural Terminology (CTP) codes. He again submitted request for payment on 11/26/06 and again on 5/3/07, 2/26/08 and on 4/29/08. A letter from the carrier dated 12/4/06, appears to note that the bill had been unable to process due to multiple reasons that included a problem with petitioner's Federal Employer Identification Number (FEIN) and claimant's information. The evidence revealed that the claimant had utilized a different last name at some point, which was different than that used in Dr. D's records of the claimant and that Dr. D had been employed with another health care provider that utilized a different FEIN for his billing. Dr. D did not provide any evidence that he had attempted to clarify these matters with the carrier. Nonetheless, after resubmissions and having changed some of the CPT codes, the carrier did render a partial payment in the amount of \$800.00 issued on 5/28/08. Dr. D eventually filed his DWC 60 with the Division on 2/17/09 requesting medical dispute resolution process of \$725.00 for services rendered on 8/28/06.

The Division's Rule 133.307 (c) (1) (A) states in part,

"A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later that one year after the date(s) of service in dispute."

Subparagraph (B) states in part,

"A request may be filed later than one year after the date(s) of service if:

(i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;"

The carrier contended that petitioner did not timely file his request for appeal with the Division within one year from the date of service and has waived his right to appeal as stated in the Division's Rule 133.307 (c) (1) (A). The petitioner relied upon subparagraph (B) of the same rule to state that as either the compensability or extent of injury was in dispute, and he never received the final decision regarding these disputes, he was not required to have filed his DWC 60 within one year from the date of service. A review of the evidence revealed that nothing in the evidence showed that a dispute had arisen in this regard, that a benefit review conference was requested or undertaken or that a contested case hearing was requested or had as to compensability, extent of injury or liability.

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 (Self-Insured), Employer.
  - C. The claimant sustained a compensable injury on \_\_\_\_\_.
2. Carrier delivered to 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.
3. On 2/17/09, the Division received Petitioner's Medical Fee Dispute Resolution DWC-60 requesting an appeal of the carrier's denial of \$725.00 for services rendered on 8/28/06.
4. On 12/2/09, the Medical Fee Dispute Resolution Findings and Decision determined that Dr. D, M. D. failed to timely file a request for dispute per 28 TAC §133.307 (c) (1) (A) for fees of \$725.00 as reimbursement for health care services rendered on 8/28/06 for the compensable injury of \_\_\_\_\_.
5. Petitioner's request for medical dispute resolution with the Division was not filed within one year from the date of service of 8/28/06.
6. Petitioner did not timely file a request for medical dispute resolution with the Division and waived the right to medical dispute resolution.

## 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 the Medical Fee Dispute Resolution Findings and Decision that Dr. D, M.D. failed to timely file a request for dispute per 28 TAC §133.307 (c) (1) (A) for fees of \$725.00 for services rendered on \_\_\_\_\_.

## DECISION

The preponderance of the evidence is not contrary to the decision of the Medical Fee Dispute Resolution Findings and Decision that Dr. D, M.D. failed to timely file a request for dispute per 28 TAC §133.307 (c) (1) (A). Petitioner's request for fees of \$725.00 for services rendered on \_\_\_\_\_ is dismissed in accordance with 28 TAC §133.307 (e) (3).

## ORDER

Carrier is not liable for the benefits at issue in this hearing.

The true corporate name of the 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)  
(P.O. BOX)  
(CITY), TEXAS (ZIP CODE)**

Signed this 16th day of February, 2010.

Virginia Rodríguez-Gómez  
Hearing Officer