

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 19, 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 Dr. D, M.D. is not entitled to receive \$500.00 for services rendered on April 5, 2007.

PARTIES PRESENT

Petitioner/Claimant appeared without representation.
Respondent/Carrier appeared and was represented by TW, attorney.

BACKGROUND INFORMATION

The Division assigned Petitioner, Dr. D, as a designated doctor, which services he performed on April 5, 2007. Petitioner contended that he was not paid \$500.00 of his bill for services and filed a DWC 60 with the Division requesting dispute resolution regarding his fees. Petitioner did not dispute that the Division did not receive his DWC 60 until February 17, 2009. Instead, Petitioner contended that the calculation of the dates should exclude week-ends and holidays. Further, that the period from November 7, 2007 through April 1, 2008 should be excluded for good cause shown as he was out on medical leave and that the dates from September 7, 2008 through April 5, 2009 should also be excluded due to Hurricane Ike. Petitioner also contended that as he did not serve in the role of treating doctor, the Division rules regarding healthcare providers upon which the carrier relied did not apply to him.

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 than 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;

(ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the carrier previously denied payment based on medical necessity; or

(iii) the dispute relates to a refund notice issued pursuant to a Division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice."

The pertinent rule in dispute does not appear to cite "business" days or "working" days when citing the deadline of one year after the date of service nor does it provide for a good cause clause other than subparagraph (B). Nothing in the evidence revealed that there was or is pending a dispute regarding compensability, extent of injury, liability, medical necessity or a refund notice pursuant to a Division audit. The evidence also did not support Petitioner's interpretation of the rules that he would not be considered a healthcare provider based on his role as a designated doctor. As such, April 5, 2008 would be one year after the date of service of April 4, 2007. As April 5, 2008 is prior to the occurrence of Hurricane Ike, Petitioner's argument in this regard need not be addressed.

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 (Employer), 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 \$500.00 for services rendered on 4/5/07.
4. On 12/7/09, 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 \$500.00 as reimbursement for health care services rendered on 4/5/07 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 4/5/07.

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. Because Petitioner failed to timely file a request for dispute resolution regarding Carrier's denial of payment for services rendered on April 5, 2007, the preponderance of the evidence is not contrary to the Medical Fee Dispute Resolution Findings and Decision that Dr. D, M.D. is not entitled to receive \$500.00 for those services.

DECISION

Because Petitioner failed to timely file a request for dispute resolution regarding Carrier's denial of payment for services rendered on April 5, 2007, the preponderance of the evidence is not contrary to the Medical Fee Dispute Resolution Findings and Decision that Dr. D, M.D. is not entitled to receive \$500.00 for those services.

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 (**SELF-INSURED**) and the name and address of its registered agent for service of process is

**AR, CITY SECRETARY
(STREET ADDRESS)
HOUSTON, TEXAS (ZIP CODE)**

Signed this 19th day of February, 2010.

Virginia Rodríguez-Gómez
Hearing Officer