

**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 February 3, 2010, to decide the following disputed issue:

Is the carrier liable to (Claimant) in the amount of \$228.00 for reimbursement for services rendered to the Claimant on \_\_\_\_\_ for prescription medication and an office visit?

**PARTIES PRESENT**

Claimant appeared and was assisted by LD, ombudsman. Carrier appeared and was represented by attorney JS.

**BACKGROUND**

On December 24, 2007, Carrier received a request for reimbursement in the amount of \$228.00 for an office visit and medication that the claimant had paid for out of his pocket for treatment for his compensable injury.

A Medical Fee Dispute Resolution Findings and Decision was issued denying claimant's request for reimbursement relying on Rule 133.307. Rule 133.307(c)(3) provides as follows:

(3) Employee dispute request:

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 healthcare 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.

The claimant failed to provide a bill from the doctor showing the services rendered and how the services related to the compensable injury. No documentary evidence supports that the medications purchased by the claimant were for treatment of the compensable injury.

Additionally, Section 408.022(a) of the Texas Workers' Compensation Act provides, Except in an emergency, the Division shall require an employee to receive medical treatment from a doctor chosen from a list of doctors approved by the commissioner. A doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed. The employee is entitled to the employee's initial choice of doctor from the Division's list.

In this case, according to the Division's records the claimant's treating doctor is Dr. H, M.D. The receipts show that Dr. S was the doctor that prescribed the medications in dispute. The claimant did not request a change of treating doctor to Dr. S. The claimant also testified that Dr. H did not refer him to Dr. S and that Dr. H continues to be his treating doctor. Because Dr. S was not the claimant's treating doctor, the carrier is likewise not liable 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).
  - C. 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. The claimant did not provide sufficient documentation to entitle him to reimbursement for the requested medical expenses.
4. The provider performing the examination and prescribing the medication was not the claimant's treating doctor.

## 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. Carrier is not liable to (Claimant) in the amount of \$228.00 for reimbursement for services rendered to him on \_\_\_\_\_ for prescription medication and an office visit.

## DECISION

Carrier is not liable to (Claimant) in the amount of \$228.00 for reimbursement for services rendered to him on \_\_\_\_\_ for prescription medication and an office visit.

## 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 carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, #300  
IRIVNG, TEXAS 75063**

Signed this 10<sup>th</sup> day of February, 2010.

Katherine D'Aunno Buchanan  
Hearing Officer