

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 J.Dr. D, M.D. is not entitled to receive \$925.00 for services rendered on September 19, 2006?

PARTIES PRESENT

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

BACKGROUND INFORMATION

The Division assigned Petitioner, Dr. D, as designated doctor to evaluate the claimant. Petitioner rendered his services as such on 9/19/06. Subsequently, as petitioner did not receive payment for his services, he requested medical fee dispute resolution from the Division by filing a DWC 60 with the Division. Although the Medical Fee Dispute Resolution Review Findings and Decision in evidence states that Petitioner's DWC 60 was received in Medical Dispute Resolution on 2/17/09, Petitioner presented a copy of a certified mail return receipt requested green card that showed that Petitioner had sent a communication dated 9/27/07 requesting dispute resolution on this case along with five other matters. The Respondent's evidence revealed that this communication was received by the Division on 10/2/07. Petitioner also provided persuasive testimony regarding this matter and that a DWC 60 Form had been utilized for this request. As such, it is found that the Division received Petitioner's DWC 60 on 10/2/07.

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;".

Petitioner contended that as designated doctor he should not be considered a health care provider for the purposes of applying Division Rule 133.307. Nothing in the pertinent rules delineate that a designated doctor should be excluded in the definition of a health care provider. Additionally, Petitioner contended that weekends and holidays should be excluded in the calculation of days. Division Rule 133.307 does not utilize the term "business" days nor "working" days, but merely states the requirement of a one year anniversary deadline. Further, Petitioner contended that liability or the extent of the injury must have been in dispute as he was appointed in the role of designated doctor and as such, the one year deadline does not apply. Nothing in the evidence was presented to show that a dispute had arisen as noted in Division Rule 133.307 (c) (B) (i). Petitioner's DWC 60 was received by the Division on 10/2/07, which is more than one year from the date of service of 9/19/06. As such, petitioner failed to timely request medical fee dispute resolution with the Division and waived the right to medical dispute resolution.

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. 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 10/2/07, the Division received Petitioner's Medical Fee Dispute Resolution DWC-60 requesting an appeal of the carrier's denial of \$925.00 for services rendered on 9/19/06.
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 \$925.00 as reimbursement for health care services rendered on 9/19/06 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 9/19/06.

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 September 19, 2006, 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 \$925.00 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 September 19, 2006, 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 \$925.00 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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON WRIGHT, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723**

Signed this 22nd day of February, 2010.

Virginia Rodríguez-Gómez
Hearing Officer