

**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 18, 2010 with JN as the presiding hearing officer. The following disputed issue was decided:

Is the preponderance of the evidence contrary to the decision of the Medical Fee Dispute Resolution that Claimant is not entitled to receive \$179.58 as reimbursement for health care services rendered on \_\_\_\_\_?

**PARTIES PRESENT**

Petitioner/Claimant appeared and was assisted by HD, ombudsman. Respondent/Self-Insured appeared and was represented by HW, adjuster.

**BACKGROUND INFORMATION**

Petitioner/Claimant testified that on \_\_\_\_\_, in order to receive treatment from Dr. K a lumbar MRI test was performed. Claimant is now requesting payment for the out of pocket expenses of \$179.58 for the MRI test. Respondent/Self-Insured contended that they are not responsible for the requested co-pay since medical necessity was denied for the lumbar MRI test and a bill was never submitted to them. In a decision dated October 20, 2009 a Medical Fee Dispute Resolution (MFDR) reviewer found in favor of Self-Insured. Claimant appealed the decision, requesting a Medical Fee Contested Case Hearing.

The evidence showed that a preauthorization medical necessity request for the MRI test was denied on January 20, 2009, with Dr. K, treating doctor, aware of this decision by January 21, 2009. Even though required by Section 134.600(o)(1) Dr. K did not timely request a reconsideration. Claimant testified about his need for medications, but no medical evidence was presented to explain the occurrence of a medical emergency on \_\_\_\_\_ to necessitate the MRI test.

The evidence also showed that Claimant sent an item on January 29, 2009 that was delivered to (City), Texas, but the postal confirmation did not show to whom the item was sent; nor is there an explanation of what was sent. As required under Section 133.307(e)(3)(C ) Claimant did not submit a copy of Self-Insured's denial of reimbursement for the MRI test or provide convincing evidence of his attempt to obtain reimbursement or refund from the Self-Insured. The preponderance of the evidence is not contrary to the findings of MFDR review and therefore Self-Insured is not liable to the Claimant for \$179.58 as reimbursement for health care services rendered on \_\_\_\_\_.

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 (Self-Insured), 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. Self-Insured delivered to Claimant a single document stating the true corporate name of Self-Insured, and the name and street address of Self-Insured's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
4. The \$179.58 sought by Claimant as reimbursement for health care services rendered on \_\_\_\_\_, was for services which were not preauthorized as a medical necessity, nor rendered for a medical emergency.
5. Claimant failed to submit the request for reimbursement of medical services appropriately to the Self-Insured.

### **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, rendered on October 29, 2009, that Claimant is not entitled to \$179.58 as reimbursement for health care services rendered on \_\_\_\_\_.

### **DECISION**

Claimant is not entitled to \$179.58 as reimbursement for health care services rendered on \_\_\_\_\_.

### **ORDER**

Self-Insured is not liable to the claimant 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 Self-Insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is:

**(SELF-INSURED)**  
**JC**  
**(STREET ADDRESS)**  
**(CITY), TEXAS (ZIP CODE)**

Signed this 19th day of February, 2010.

Judy L. Ney  
Hearing Officer