

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 March 8, 2010, to decide the following issue:

1. Whether the preponderance of the evidence is contrary to the decision of Medical Review that Petitioner is not entitled to additional reimbursement in the amount of \$275.00 plus applicable accrued interest for date of service of September 4, 2007, for a Designated Doctor Examination?

PARTIES PRESENT

Claimant did not appear and his appearance was waived by the parties. Petitioner Dr. D, appeared without representation. Respondent/Carrier appeared and was represented by TW, attorney.

BACKGROUND INFORMATION

Dr. D was the only witness at the March 8, 2010, CCH. Dr. D performed a designated doctor examination on September 4, 2007. His bill in the amount of \$1,075.00 was faxed to Carrier on September 10, 2007. His initial bill was submitted within 95 days to the Carrier. On September 25, 2007, Carrier approved payment in the amount of \$650.00. On February 24, 2009, Dr. D requested medical dispute resolution and requested an additional \$275.00 (Although the initial bill was reduced by \$425.00, Dr. D is only seeking additional reimbursement for \$275.00). Rule §133.307 (c) provides that:

Requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division. Requestors shall file two legible copies of the request with the Division.

(1) Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request.

(A) 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 dispute.

(B) 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 the refund notice.

One year from the date of service of September 4, 2007, is September 4, 2008. Pursuant to Rule §133.307 (c) (1) (A), Dr. D had until September 4, 2008, to file his request for MDR. Contrary to Dr. D's arguments at the CCH, none of the exceptions listed in Rule §133.307 (c) (B) (i) (ii) (iii) applied. Dr. D also argued that Commissioner's Bulletin #B-0070-08 should apply. Dr. D's one-year to file had already expired prior to the occurrence of Hurricane Ike (See September 8, 2008 Governor's proclamation). Since none of the exceptions apply, the preponderance of the evidence is not contrary to the Medical Fee Dispute Resolution Findings and Decision that Dr. D is not entitled to the amount in dispute of \$275.00, as his dispute was not timely filed.

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 and sustained a compensable injury.
 - C. The Division selected Dr. D to serve as its designated doctor with regard to a designated doctor examination for maximum medical improvement (MMI) and impairment rating (IR).
 - D. On September 4, 2007, Dr. D performed a designated doctor examination.
 - E. Dr. D filed his initial claim for reimbursement with the Carrier within 95 days.
 - F. On February 24, 2009, the Division received Dr. D's request for medical dispute resolution.
2. On December 7, 2009, the Medical Fee Dispute Resolution Findings and Decision determined that Dr. D, failed to timely request a dispute pursuant to 28 TAC §

133.307(c)(1)(A) for fees in the amount of \$275.00 as reimbursement for health care services for date of service of September 4, 2007.

3. Petitioner's request for medical dispute resolution with the Division was not filed within one year from the date of service of September 4, 2007.

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 of the Texas Department of Insurance, Division of Workers' Compensation.
3. The preponderance of the evidence is not contrary to the decision of Medical Review that Petitioner is not entitled to additional reimbursement in the amount of \$275.00 plus applicable accrued interest for date of service of September 4, 2007, for a Designated Doctor Examination.

DECISION

Carrier is not liable to Petitioner for \$275.00 plus applicable accrued interest for date of service of September 4, 2007, for a Designated Doctor Examination since Petitioner's request for medical dispute resolution with the Division was not filed within one year from the date of service of September 4, 2007.

ORDER

Carrier is not liable for the benefits that were 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 **SERVICE LLOYDS INSURANCE COMPANY**, and the name and address of its registered agent for service of process is:

**JOSEPH KELLEY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755**

Signed this 10th day of March, 2010

Cheryl Dean
Hearing Officer