

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 29, 2010 to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of the Medical Fee Dispute Resolution Officer that the health care provider is entitled to \$500 plus applicable accrued interest for the designated doctor's examination CPT Code 99456-W6-RE on _____?

PARTIES PRESENT

Claimant did not appear and his appearance was waived by the parties.

Petitioner/Carrier appeared and was represented by JL, attorney.

Respondent/Provider appeared and was assisted by LC, layperson.

BACKGROUND INFORMATION

On _____, Dr. H performed a designated doctor's examination to determine if the claimed injury was caused by the work incident and to determine the extent of the compensable injury. Petitioner/Carrier denied payment and Dr. H requested medical fee dispute resolution. On February 24, 2010, the medical fee dispute resolution officer issued his findings and decision in favor of Dr. H. Petitioner/Carrier appealed the decision to a Medical Contested Case Hearing. The dollar amount listed in the Medical Fee Dispute Officer's decision was not in dispute. However, Petitioner/Carrier did indicate two reasons for their denial of payment, (1) Carrier disputed compensability of the claimed injury and that dispute has not been resolved. Therefore, Carrier has no liability under the Texas Workers' Compensation Act and (2) The Division does not have the authority to order a designated doctor's examination in the present case because a compensable injury is a prerequisite to a designated doctor's examination under Texas Labor Code §408.0041. Texas Labor Code §408.0041 states in relevant part:

“(a) At the request of an insurance carrier or an employee, or on the commissioner's own order, the commissioner may order a medical examination to resolve any question about: (1) the impairment caused by the compensable injury; (2) the attainment of maximum medical improvement; (3) the extent of the employee's compensable injury; (4) whether the injured employee's disability is a direct result of the work-related injury; (5) the ability of the employee to return to work; or (6) issues similar to those described by Subdivisions (1)-(5). (h) The insurance carrier shall pay for: an examination required under subsection (a) or (f);”

In the present case, Dr. H was appointed under the authority of subsection (a), and therefore the Carrier shall pay for the examination. There is not an exception to payment contained in §408.0041 and this section gives the Division the authority to order a designated doctor's examination when it is either requested or on its own order. Therefore, Petitioner/Carrier is 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. The Medical Fee Dispute Resolution Officer determined that the medical provider is entitled to \$500 plus interest for the designated doctor's examination on date of service _____.
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. Carrier denied compensability for the _____ claimed injury on a PLN-1 dated December 11, 2007.
4. The Division selected Dr. H to serve as its designated doctor with regard to an examination to determine if the claimed injury was caused by the work incident and to determine the extent of the compensable injury.
5. On _____ Dr. H performed a designated doctor examination in accordance with Texas Labor Code §408.0041(a).
6. In accordance with Texas Labor Code §408.0041(h)(1), Carrier shall pay for an examination required under §408.0041 (a) or (f).

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 established that the Respondent, Dr. H, is entitled to reimbursement in the amount of \$500 plus applicable accrued interest for the designated doctor's examination CPT Code 99456-W6-RE on _____.

DECISION

Respondent, Dr. H, is entitled to reimbursement in the amount of \$500 plus applicable accrued interest for the designated doctor's examination CPT Code 99456-W6-RE on _____.

ORDER

Petitioner/Carrier is 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 **VALLEY FORGE INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**CT CORP. SYSTEM
350 N. ST. PAUL STREET
DALLAS, TEXAS 75201**

Signed this 1st day of April, 2010.

Jacquelyn Coleman
Hearing Officer