

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 April 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 Dr. M, M.D. is entitled to \$558.70 for services rendered as designated doctor on _____?

PARTIES PRESENT

Petitioner/Carrier was represented by JC, attorney, who appeared by telephone. Claimant did not appear and his attendance was waived. Respondent was represented by PL, layperson, who appeared by telephone.

BACKGROUND INFORMATION

Petitioner/Carrier filed a timely dispute of compensability concerning Claimant's claimed injury. The Division then followed standard procedure by ordering Claimant to attend a designated doctor's examination conducted by Dr. M to determine whether Claimant sustained an injury from the claimed injury. On _____, Dr. M determined that an injury had occurred. Later at a contested case hearing, the hearing officer determined that Claimant had not sustained a compensable injury. On September 21, 2009, the Division's Appeals Panel wrote that the hearing officer's decision was final.

On February 4, 2010, the Division, through a Medical Fee Dispute Resolution Findings and Decision, ordered Petitioner/Carrier to pay Dr. M \$558.70 plus applicable interest for the designated doctor examination.

At this hearing, Petitioner/Carrier argued that the Division had no authority to order Dr. M to perform a designated doctor examination on Claimant. Petitioner/Carrier maintained that the Division can only order a designated doctor's examination for Claimants who have been determined to have a compensable injury. Petitioner/Carrier asserted that a compensable injury is a prerequisite for Carrier to be liable for a designated doctor's bill.

Texas Labor Code §408.0041 provides in pertinent part the following for a designated doctor examination:

- (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:
 - (1) an examination required under Subsections (a) or (f); and
 - (2) the reasonable expenses incident to the employee in submitting to the examination.

In the present case, Respondent was appointed under the authority of subsection (a)(6) of §408.0041 and should be paid by Petitioner/Carrier for the examination. The examination was ordered for an issue that is similar to the issues listed in subdivisions (1) through (5) under (a). Therefore, Petitioner/Carrier is liable for payment.

Even if 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).
2. Petitioner/Carrier delivered to Respondent 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. Because Respondent performed a designated doctor examination on Claimant in accordance with Texas Labor Code §408.0041(a), Petitioner/Carrier is responsible for paying Respondent for the examination.

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 Findings & Decision that Dr. M, M.D. is entitled to be paid \$558.70 for services rendered as designated doctor on _____.

DECISION

Respondent, Dr. M, M.D., is entitled to payment in the amount of \$558.70, plus applicable accrued interest for the designated doctor examination 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

**C T CORPORATION SYSTEM
350 N. ST. PAUL STREET
DALLAS, TEXAS 75201**

Signed this 19th day of April, 2010.

CAROLYN F. MOORE
Hearing Officer