

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 September 7, 2010 to decide the following issues:

In (MDR Tracking No.02):

1. Is the preponderance of the evidence contrary to the decision of Medical Review that Petitioner is not entitled to additional reimbursement in the amount of \$1123.41 plus applicable accrued interest for date of service September 15, 2009 through October 16, 2009?

In (MDR Tracking No.03):

1. Is the preponderance of the evidence contrary to the decision of Medical Review that Petitioner is not entitled to additional reimbursement in the amount of \$1722.63 plus applicable accrued interest for date of service October 27, 2009 through November 18, 2009?

PARTIES PRESENT

Claimant did not appear and her appearance was waived by the parties. Petitioner appeared and was represented by KM, attorney. Respondent appeared and was represented by PP, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury to her right wrist on _____. On August 20, 2009 she underwent right carpal tunnel release surgery. The fees in dispute in both sequences involve post-operative care following that surgery.

In (MDR Tracking No.02) medical fee dispute resolution was requested by the Petitioner, and on April 19, 2010 Medical Fee Dispute issued a determination that based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, "the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services involved in this dispute".

The rationale for the decision was:

Carrier filed a PLN-11 on July 31, 2008 and on December 23, 2008 disputing the compensability of any and all diagnoses of the compensable injury other than a right wrist contusion. Carrier particularly disputed extent of the compensable injury to include among other things right wrist sprain, right wrist fracture, and right wrist carpal tunnel syndrome. The Division determined after a contested case hearing held on November 3, 2009 that the compensable injury extends to include a right wrist sprain/strain but does not extend to include right wrist tenosynovitis, right wrist carpal tunnel syndrome, or a right wrist radial fracture (this decision was not appealed and became final).

Requestor billed with the diagnosis code of 923.21 (contusion of wrist). A review of the pre-authorization request states that “client underwent surgery on August 20, 2009 for nerve entrapment and was in a splint for 8 days...PLAN: 2-3/week for 4-6 weeks for stretching, ROM, HEP, etc”. The surgery was not performed for the compensable injury, therefore any ancillary charges/post-operative treatment associated with the surgery is not reimbursable by Carrier, including the disputed charges made the basis of this MDR.

In (MDR Tracking No.03) medical fee dispute resolution was requested by the Petitioner, and on April 30, 2010 Medical Fee Dispute issued a determination that based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, “the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services involved in this dispute”.

The rationale for the decision was the same as stated above in connection with (MDR Tracking No.02). The healthcare in question was post-operative treatment following carpal tunnel release surgery for the non-compensable right carpal tunnel syndrome.

Petitioner argued the requested healthcare was pre-authorized for diagnosis code 923.21, contusion of the wrist, and there is no dispute that contusion of the wrist is part of the compensable injury. However, the prospective/concurrent review determination approved the requested healthcare “based solely on medical necessity” and directed requestor to “please see attached PLN-11s from Carrier defining issues of compensability”. The credible evidence established that the charges in dispute were in fact charges for post-operative care following the carpal tunnel release surgery.

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. _____ Claimant was the employee of (Employer).
 - C. On _____ Claimant sustained a compensable injury.

1. Carrier delivered to Petitioner a single document stating the true corporate name of Carrier, and the name and address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
2. The charges in dispute in (MDR Tracking No.02) and (MDR Tracking No.03) were for post-operative care following right wrist carpal tunnel release surgery.
3. The compensable injury of _____ does not extend to include right wrist carpal tunnel syndrome.

CONCLUSIONS OF LAW

In (MDR Tracking No.02):

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 \$1123.41 plus applicable accrued interest for dates of service of September 15, 2009 through October 10, 2009.

In (MDR Tracking No.03):

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 \$1722.63 plus applicable accrued interest for dates of service of October 27, 2009 through November 18, 2009.

DECISION

In (MDR Tracking No.2):

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 \$1123.41 plus applicable accrued interest for dates of service of September 15, 2009 through October 10, 2009.

In (MDR Tracking No.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 \$1722.63 plus applicable accrued interest for dates of service of October 27, 2009 through November 18, 2009.

ORDER

In (MDR Tracking No.2):

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 Section 408.021 of the Act.

In (MDR Tracking No.3):

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 Section 408.021 of the Act.

The true corporate name of the insurance Carrier is **WORKERS COMPENSATION SOLUTIONS**, and the name and address of its registered agent for service of process is:

**JERRY EDWARDS
1004 MARBLE HEIGHTS DRIVE
MARBLE FALLS, TEXAS 78654**

Signed this 7th day of September, 2010.

Thomas Hight
Hearing Officer