

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 8, 2010 to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution that Dr. K, MD is not entitled to receive an additional \$85.00 as reimbursement for health care services rendered on July 20, 2009 under CPT code 99361-W1?

PARTIES PRESENT

Claimant did not appear and her appearance was excused.

In attendance on behalf of the Petitioner was Dr. R.

Respondent/Carrier appeared and was represented by HW, adjuster.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. Dr. K met with the insurance carrier's case manager on July 20, 2009 to discuss Claimant's treatment plan. Dr. K submitted a bill for \$113.00 for CPT Code 99361-W1. The Carrier paid Dr. K \$28.00 for his services. Dr. K appealed the Carrier's decision to medical fee dispute resolution. The medical fee dispute resolution officer found that Dr. K was not entitled to an additional \$85 for services rendered on July 20, 2009. Dr. K appealed the denial to a medical fee contested case hearing. At the medical contested case hearing both parties relied on Rule 134.204(e)(4)(A) to support their position. The Rule states as follows:

(4) Case management services require the treating doctor to submit documentation that identifies any HCP that contributes to the case management activity. Case management services shall be billed and reimbursed as follows:

(A) CPT Code 99361.

(i) Reimbursement to the treating doctor shall be \$113. Modifier "W1" shall be added.

(ii) Reimbursement to the referral HCP shall be \$28 when a HCP contributes to the case management activity.

The Petitioner/Provider argues that, in accordance with Rule 134.204(e)(4)(A)(i), the treating doctor is entitled to \$113.00 for the meeting with the case manager. The Respondent/Carrier argues that Dr. K is not the treating physician, but he is a referral physician. Respondent argues that as a referral physician, Dr. K is only entitled to the \$28.00 that has been paid in accordance with Rule 134.204(e)(4)(A)(ii) and no additional reimbursement is owed.

The Division's Texas Compass Claim Summary does not list a medical provider's name. The only reference to Claimant's treating physician is contained in the Report of Medical Evaluation from Dr. G who performed an impairment rating evaluation on July 31, 2008. Dr. G indicates in his report that Claimant was referred to him by her treating physician, Dr. K (2).

There is no evidence in the records presented that indicates that Claimant changed treating physicians to Dr. K and he does not indicate in his July 20, 2009 report that he is acting in the capacity of Claimant's treating physician. Based on the evidence presented, Petitioner failed to meet his burden of proof to establish that he is entitled to an additional \$85 for services rendered on July 20, 2009.

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. Claimant sustained a compensable injury on _____.
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. Dr. K was not Claimant's treating doctor on July 20, 2009.
4. The preponderance of the evidence is not contrary to the decision of Medical Fee Dispute Resolution Officer rendered on June 11, 2010 that Petitioner/Provider is not entitled to receive an additional \$85.00 under CPT code 99361-W1.

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. Dr. K is not entitled to receive an additional \$85.00 as reimbursement for health care services rendered on July 20, 2009 under CPT code 99361-W1 for the compensable injury of _____.

DECISION

Dr. K is not entitled to receive an additional \$85.00 as reimbursement for health care services rendered on July 20, 2009 under CPT code 99361-W1 for the compensable injury of _____.

ORDER

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 §408.021.

The true corporate name of the insurance carrier is **TASB RISK MANAGEMENT FUND** and the name and address of its registered agent for service of process is:

**TASB RISK MANAGEMENT FUND
JAMES B. CROW, SECRETARY
12007 RESEARCH BLVD.
AUSTIN, TX 78759**

Signed this 16th day of September, 2010.

Jacquelyn Coleman
Hearing Officer