

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 June 18, 2010, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that (Sub-Claimant), Petitioner, is not entitled to reimbursement of a total of \$298.77 for the compensable injury of _____?

PARTIES PRESENT

Claimant did not appear. Petitioner appeared and was represented by CF, attorney. Respondent/Carrier appeared and was represented by TW, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. Claimant was treated by Dr. R, M.D., and Dr. A, M.D. Drs. R and A provided medical services to Claimant for his compensable injury, and billed the Scott and White Health Plan the sum of \$518.00 for the medical services. Scott and White Health Plan paid \$298.77 of the \$518.00 billed by Drs. R and A. CF submitted an affidavit that stated that Petitioner was the authorized representative of the Scott and White Health Plan, and was entitled to pursue reimbursement from Respondent/Carrier of the \$298.77 paid by the Scott and White Health Plan. Carrier denied that Petitioner was entitled to reimbursement of the \$298.77, and Petitioner sought Medical Dispute Resolution (MDR). On March 31, 2010, a Medical Fee Dispute Resolution Findings and Decision (MFDRFD) was rendered by a MDR reviewer. The MFDRFD determined that based on the documentation submitted by the parties and in accordance with Texas Labor Code §413.031, Petitioner was not entitled to a reimbursement of \$298.77.

DISCUSSION

The provisions under Texas Labor Code Ann. §§409.009 and 409.0091 apply to dispute resolution, including medical fee disputes. Texas Labor Code Ann. §§409.009 concerns subclaims, and Texas Labor Code Ann. §409.0091 applies to reimbursement procedures for a health care insurer. Texas Labor Code Ann. §409.0091 applies only to dates of injury on or after September 1, 2007, except as provided under Texas Labor Code Ann. §409.0091(s). Texas Labor Code Ann. §409.0091(s) provides that "on or after September 1, 2007, from information provided to a health care insurer before January 1, 2007, under §402.084(c-3), the health care insurer may file not later than March 1, 2008." Texas Labor Code Ann. §409.0091(s) requires a data match under Texas Labor Code Ann. §402.084(c-3).

Claimant's compensable injury occurred before January 1, 2007, the provisions of Texas Labor Code Ann. §409.0091(s) are applicable to Petitioner's claim for reimbursement, and a data match under Texas Labor Code Ann. §402.084(c-3) is required in accordance with Texas Labor Code Ann. §409.0091(s). Texas Labor Code Ann. §409.0091(s) states that if information was provided to a health care insurer before January 1, 2007, under Texas Labor Code Ann. §402.084(c-3), the health care insurer may file for reimbursement from the workers' compensation carrier not later than March 1, 2008, and may file a subclaim with the Division if the request for reimbursement has been presented and denied no later than March 1, 2008. Texas Labor Code Ann. §409.0091(f) relates to the form and manner in which the health care insurer shall file for reimbursement from the workers' compensation insurance carrier. The procedures for health care insurers to pursue medical fee dispute resolution are found in 28 Tex. Admin. Code §§140.6, 140.8, and 28 Tex. Admin. Code §133.307.

The medical services in dispute relate to Claimant's compensable injury on _____. To be eligible to file for reimbursement from Respondent/Carrier under Texas Labor Code Ann. §409.0091, Petitioner had to make a data match under Texas Labor Code Ann. §402.084(c-3) as required under Texas Labor Code Ann. §409.0091(s). CF, an attorney, filed an affidavit dated August 7, 2009, and stated that he was president of Petitioner, and that Petitioner was the authorized representative of the Scott and White Health Plan for this health care insurance subclaim, and was the authorized trading partner with the Division for the Scott and White Health Plan. According to his affidavit, Mr. CF stated that a data match occurred on July 9, 2007. However, Petitioner did not provide documentation to support its contention that that a data match occurred on July 9, 2007. Therefore, Petitioner is not eligible to file for reimbursement from Respondent /Carrier under Texas Labor Code Ann. §409.0091.

Claimant's compensable injury occurred before January 1, 2007. Thus, the provisions of Texas Labor Code Ann. §409.0091(s) are applicable to Petitioner's claim for reimbursement, and a data match had to have occurred before January 1, 2007, in order that Petitioner may file for reimbursement from Respondent/Carrier. Petitioner did not provide documentation to support its contention that that a data match occurred before January 1, 2007, and Petitioner is not eligible to file for reimbursement from Respondent /Carrier under Texas Labor Code Ann. §409.0091(s).

Petitioner did not provide documentation to support its request for reimbursement was filed before March 1, 2008. Texas Labor Code Ann. §409.0091(s) states that if information was provided to a health care insurer before January 1, 2007, under Texas Labor Code Ann. §402.084(c-3), the health care insurer may file for reimbursement from the workers' compensation carrier not later than March 1, 2008, and may file a subclaim with the Division if the request for reimbursement has been presented and denied no later than March 1, 2008. Petitioner is not eligible to file for reimbursement from Respondent /Carrier because Petitioner did not provide documentation to support its request for reimbursement was filed before March 1, 2008.

Texas Labor Code Ann. §409.0091(f) relates to the form and manner in which the health care insurer shall file for reimbursement from the workers' compensation insurance carrier. The Division prescribed a form entitled Reimbursement Request for Payment Made by Health Care Insurer (DWC-026) to meet the requirements under Texas Labor Code Ann. §409.0091(f). The DWC-026 requires pertinent information, including dates of service and a description of services. Petitioner did not provide documentation to support that it included a DWC-026 in its

request for reimbursement. Petitioner is not eligible for reimbursement because the request was not filed in the form and manner as required under Texas Labor Code Ann. §409.0091(f).

Petitioner contended that it was a subclaimant, and met the requirements for medical fee dispute resolution under Texas Labor Code Ann. §409.009, 28 Tex. Admin. Code §§140.6, 140.8, and complied with the requirements for reimbursement under 28 Tex. Admin. Code §133.307. Under 28 Tex. Admin. Code §§140.6(d), subclaimants, other than subclaimants under Texas Labor Code Ann. §409.0091, must participate in medical dispute resolution in the same manner as an injured employee or in the same manner as a health care provider, under 28 Tex. Admin. Code §133.307, and in particular 28 Tex. Admin. Code §133.307, (c)(1)(A). Petitioner was required as a subclaimant to submit a reimbursement request in the form, format, and manner prescribed by the Division, and the reimbursement must contain all the elements listed on the form. 28 Tex. Admin. Code §133.307(c)(1)(A), requires filing within one-year after the date(s) of service in dispute on a form entitled a Medical Fee Dispute Resolution Request/Response (DWC-060) under 28 Tex. Admin. Code §133.307(c)(1)(C). The DWC-060 has a table that requires information, including dates of service, CPT Code(s), amount billed, medical fee guideline (maximum allowable reimbursement), total amount paid, amount in dispute, country where services were rendered, requestor's rational for increased reimbursement or refund, and respondent's rational for maintaining the reduction or denial. According to documentation submitted by Petitioner, the DWC-060 did not have the required information Petitioner was to provide and list on the table. In addition, Petitioner failed to attach and make part of the DWC-060 its position summary, explanation of benefits provided, medical bills, and medical documentation. Petitioner filed its request for dispute resolution more than one-year after the filing deadline, and the documentation submitted by Petitioner did not comply with 28 Tex. Admin. Code §140.6(d), Tex. Lab. Code Ann. § 409.009, and 28 Tex. Admin. Code §133.307.

Based on the probative evidence, including a careful review and fair reading of the documentation, the preponderance of the evidence is not contrary to the decision of the MFDREFD that Petitioner is not entitled to reimbursement of a total of \$298.77 for the compensable injury of _____.

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 (Self-Insured), Employer, and sustained a compensable injury on _____.
2. Carrier delivered to Petitioner 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. Claimant did not appear at the medical contested case hearing on June 18, 2010, and his appearance was waived by the Petitioner and Respondent/Carrier.
4. On March 31, 2010, the Medical Fee Dispute Resolution Findings and Decision determined that (Sub-Claimant), Petitioner, is not entitled to reimbursement of a total of \$298.77 for the compensable injury of _____.
5. Petitioner did not file for dispute resolution in accordance with Tex. Lab. Code Ann. §§ 409.009, 409.0091, and 28 Tex. Admin. Code §§140.6, 140.8.
6. Petitioner's request is not eligible for medical fee dispute resolution under 28 Tex. Admin. Code §133.307.
7. Petitioner is not eligible to file for reimbursement from the Respondent/Carrier under Tex. Lab. Code Ann. §409.0091.
8. Petitioner did not file for reimbursement from Respondent/Carrier in a timely manner as defined by Tex. Lab. Code Ann. §409.0091(s).
9. Petitioner did not file for reimbursement from Respondent/Carrier in the form and manner prescribed by Tex. Lab. Code Ann. §409.0091(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 is not contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that (Sub-Claimant), Petitioner, is not entitled to reimbursement of a total of \$298.77 for the compensable injury of _____.

DECISION

(Sub-Claimant), Petitioner, is not entitled to reimbursement of a total of \$298.77 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 of _____, in accordance with Texas Labor Code Ann. §408.021.

The true corporate name of the insurance carrier is **(SELF-INSURED)**, and the name and address of its registered agent for service of process is

**DR. DY, SUPERINTENDENT
(STREET ADDRESS)
(CITY), TEXAS (ZIP CODE)**

Signed this 20th day of July, 2010.

Wes Peyton
Hearing Officer