

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 November 8, 2010, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the Medical Fee Dispute Resolution Findings and Decision (MFDR) that Claimant is not entitled to reimbursement of \$2,000.00 for out-of-pocket expenses?

PARTIES PRESENT

Claimant appeared and was assisted by DP, ombudsman. Carrier appeared and was represented by BP, attorney.

BACKGROUND INFORMATION

Claimant filed a request for medical fee dispute resolution for a variety of out-of-pocket expenses including doctors' office visits, prescription medications, and travel reimbursement. Travel reimbursement was litigated herein; however, a discussion of travel reimbursement will not be included herein because that matter has been severed. A separate decision will be issued on travel reimbursement under a separate sequence since appeal of travel expense is to the Appeals Panel of the Texas Department of Insurance, Division of Workers' Compensation.

Rule 133.307(c)(1)(A) provides as follows:

(c) Requests. Requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division. Requestors shall file two legible copies of the request with the Division.

- (1) Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request.

(A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

Subparagraph (c)(1)(B) is not applicable herein.

The request for medical fee dispute resolution was received by MFDR on September 1, 2009. When received by MFDR, Claimant was requesting reimbursement with dates of service of January 1, 2008, through August 1, 2008. Under Rule 133.307(c)(1)(A), Claimant did not timely file for dates of service of January 1, 2008, through August 1, 2008.

Claimant also filed his DWC-60 stating no dates of service and listed only "\$200 x 14". At this hearing Claimant provided a list of 10 service dates with a Dr. S of which the first 9 were for \$100.00 each and the last one was for \$140.00. At this hearing, Claimant also provided a list of prescriptions from Dr. S. Claimant was not persuasive that the services, dates and prescriptions were for treatment for the compensable injury.

Also admitted into evidence were bills from a doctor who was not treating the compensable injury and bills subsequent to Claimant's filing for MFDR. Claimant was not persuasive that he is entitled to reimbursement for these other bills.

Claimant failed to meet his burden of proof.

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), when he sustained a compensable injury.
2. Carrier delivered to Claimant 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 failed to file his DWC-60 in the form and manner prescribed under Rules 133.270 and 133.307(e)(3)(I) in that he is seeking reimbursement for out-of-pocket expenses which were in excess of one year prior to the filing of his request for reimbursement.
4. The reimbursement for out-of-pocket expenses within one year prior to the filing of Claimant's request for reimbursement are not for reasonably required medical treatment for the compensable injury of _____.

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 Medical Fee Dispute Resolution Findings and Decision (MFDR) that Claimant is not entitled to reimbursement of \$2,000.00 for out-of-pocket expenses.

DECISION

Claimant is not entitled to reimbursement for any out-of-pocket expenses under the DWC-60 received by MFDR on September 1, 2009.

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 **LUMBERMEN'S MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701**

Signed this 12th day of November, 2010.

Charles T. Cole
Hearing Officer