

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 December 6, 2010 with JL as the presiding hearing officer. The following disputed issue was decided:

Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution that Petitioner/Provider is not entitled to receive \$650.00 as reimbursement for health care services rendered on October 26, 2009?

PARTIES PRESENT

Petitioner/Provider appeared by and through Dr. R, Clinic Director. Respondent/Carrier appeared and was represented by SC, attorney. Claimant's appearance was excused from the hearing.

BACKGROUND INFORMATION

On October 26, 2009, Dr. K, upon referral from treating doctor, Dr. C, performed an examination of Claimant to determine the date of maximum medical improvement and the impairment rating. Petitioner/Provider requested \$650.00 for payment for the services rendered. Respondent/Carrier contended that they are not responsible for the requested reimbursement for the billing under Rule 133.20(b) as the Provider did not submit the bill within 95 days of the date of service. In a decision dated September 7, 2010 a Medical Fee Dispute Resolution (MFDR) reviewer found in favor of Carrier. Provider appealed the decision, requesting a Medical Fee Contested Case Hearing.

Petitioner/Provider, through its documentary evidence and testimony of Dr. R contended that it faxed to Carrier a copy of Dr. K's narrative report and invoice on November 2, 2009. In support of its position was a copy of Provider's internal daily insurance report for November 2, 2009 that showed services rendered for Claimant in the amount of \$650.00. Petitioner/Provider also argued that impairment income benefits (IIBS) would not have been initiated on March 11, 2010 unless Respondent/Carrier had in its possession a copy of Dr. K's report, the basis of the disputed bill.

Respondent/Carrier, through the documentary evidence and testimony of WW, attorney involved in this medical dispute, argued that it did not receive any bill for the October 26, 2009 service until March 15, 2010. Respondent/Carrier explained that on December 18, 2009 the Provider, via facsimile, submitted a copy of Dr. K's report without a DWC 69, and on March 10, 2010 a copy of the complete report with the DWC 69 was received. But neither of these transmissions included a health insurance claim form. Based on the submission of the March 10, 2010 report,

the Carrier did initiate IIBS. In support of its position, was the health insurance claim form, stamped "Request for Reconsideration", with a facsimile sent date of March 15, 2010.

Respondent/Carrier's argument is persuasive. The evidence was confusing as to whether the service rendered was billed under the (date of injury) or (subsequent date of injury) date of injury. The parties agreed that Dr. K correctly examined the left elbow that was included in the (subsequent date of injury) compensable injury. But the burden of proof is on the Petitioner/Provider to prove that the request for reimbursement was sent within 95 days of the services rendered per Rule 133.20(b). Ninety five days from October 26, 2009 was January 28, 2010. Although the Petitioner/Provider alleged that a November 2, 2009 claim for reimbursement was submitted, no evidence confirmed the facsimile transmission of such a bill. Petitioner/Provider has not submitted sufficient evidence to satisfy the timely filing requirement. The preponderance of the evidence is not contrary to the findings of MFDR review and therefore Respondent/Carrier is not liable to Petitioner/Provider for \$650.00 as reimbursement for health care services rendered on October 26, 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. The Texas Department of Insurance, Division of Workers' Compensation has jurisdiction in this matter.
 - B. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 - C. Claimant was the employee of (Employer) at all times relevant to this matter.
2. Respondent/Carrier delivered to Petitioner/Provider a single document stating the true corporate name of Respondent/Carrier, and the name and street address of Respondent/Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. On September 7, 2010, Medical Fee Dispute Resolution decided that Petitioner/Provider is not entitled to receive \$650.00 as reimbursement for health care services rendered on October 26, 2009.
4. Petitioner/Provider did not submit a request for reimbursement to Carrier within 95 days of the date the service was rendered.

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 that Petitioner/Provider is not entitled to \$650.00 as reimbursement for health care services rendered on October 26, 2009.

DECISION

Petitioner/Provider is not entitled to \$650.00 as reimbursement for health care services rendered on October 26, 2009.

ORDER

Carrier is not liable to Petitioner/Provider for reimbursement at issue in this hearing. Claimant remains entitled to medical benefits for the July 7, 2008 compensable injury, in accordance with Texas Labor Code Ann. §408.021.

The true corporate name of the Carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
d/b/a CSC-LAWYERS INCORPORATING SERVICE COMPANY
211 EAST 7TH STREET STE. 620
AUSTIN, TEXAS 78701-3218**

Signed this 8th day of December, 2010.

Judy L. Ney
Hearing Officer