

MEDICAL CONTESTED CASE HEARING NO. 11134
M4-10-0013-01

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 medical contested case hearing pre-hearing conference was held on January 31, 2011 to decide the following disputed issues:

1. Is the preponderance of the evidence contrary to the Medical Fee Dispute Resolution Findings and Decision that Dr. Y, Respondent, is entitled to additional reimbursement in the amount of \$350.00?

PARTIES PRESENT

Carrier/Petitioner appeared and was represented by MS, attorney. Respondent failed to appear for the medical contested case hearing pre-hearing conference and did not respond to the Division's 10-day letter. Claimant did not appear and did not respond to the Division's 10-day letter.

BACKGROUND INFORMATION

Although properly notified, Respondent failed to appear for the medical contested case hearing pre-hearing conference scheduled for 1:30 p.m. on January 31, 2011. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Respondent the opportunity to respond and request that the hearing be rescheduled to permit him to present evidence on the disputed issue(s) was mailed to Respondent on February 8, 2011. Respondent failed to respond to the Division's 10-day letter and, on April 15, 2011, the record was closed.

Even though Respondent failed to appear and offer evidence in support of the requested additional reimbursement, Carrier/Petitioner appeared and offered evidence in support of its position. It contended that Respondent had been paid in full the total amount of \$650.00 for his services rendered as designated doctor on September 30, 2008. Carrier/Petitioner relied upon its documentary evidence including copies of checks payable to Respondent in the amounts of \$300.00 and \$350.00 to support its contentions. Moreover, Carrier/Petitioner obtained and presented a signed agreement from Respondent indicating that he had been paid in full for the services rendered as designated doctor on September 30, 2008. Therefore, after carefully reviewing and considering the evidence presented, Carrier/Petitioner met its burden of proof in showing that the preponderance of the evidence was contrary to the Medical Fee Dispute Resolution Findings and Decision that Respondent is entitled to additional reimbursement in the amount of \$350.00.

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. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
2. On _____, Claimant was the employee of (Employer).
3. On _____, Claimant sustained a compensable injury.
4. The Medical Fee Dispute Resolution Officer determined that Dr. Y, is entitled to additional reimbursement in the amount of \$350.00 for services rendered as designated doctor on September 30, 2008.
5. The Division sent a single document stating the true corporate name of the Carrier/Petitioner and the name and street address of Carrier/Petitioner's registered agent for service with the 10-day letter to the Respondent at the Respondent's address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 1.
6. Respondent failed to appear for the January 31, 2011 medical contested case hearing and did not respond to the Division's letter offering him the opportunity to have the hearing rescheduled.
7. Respondent did not have good cause for failing to appear at the medical contested case hearing.
8. Respondent performed a designated doctor examination of Claimant on September 30, 2008 to determine maximum medical improvement and impairment rating.
9. Respondent was paid in the form of checks payable in the amounts of \$300.00 and \$350.00.
10. Respondent was paid in full a total amount of \$650.00 for his services rendered as designated doctor on September 30, 2008.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, does not have jurisdiction to hear this case.
2. Venue is proper in the (City) Field Office.
3. The preponderance of the evidence is contrary to the Medical Fee Dispute Resolution Findings and Decision that Respondent is entitled to additional reimbursement in the amount of \$350.00.

DECISION

Respondent is not entitled to additional reimbursement in the amount of \$350.00.

ORDER

Carrier/Petitioner is not liable for the additional reimbursement 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 **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET SUITE 620
AUSTIN, TEXAS 78701-3218**

Signed this 21st day of April 2011.

Julio Gomez, Jr.
Hearing Officer