

MEDICAL CONTESTED CASE HEARING NO 11163
M4-11-1519-01

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 contested case hearing was held on April 7, 2011 and July 12, 2011 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution (MFDR) Findings and Decision that Health and Medical Orthopedics, Petitioner/Provider, is entitled to reimbursement in the amount of \$95.92 for date of service of (Date of Injury)?

PARTIES PRESENT

Petitioner/Provider failed to appear. Respondent/Carrier appeared and was represented by RS, attorney. Claimant did not appear and her appearance was excused.

BACKGROUND INFORMATION

Although properly notified, Provider did not appear for the medical fee contested case pre-hearing scheduled for 10:00 a.m. on April 7, 2011. Prior to the pre-hearing held in this matter, the Claimant's attendance was excused. Provider was sent a 10-day letter to allow it the opportunity to respond and offer evidence. The Provider did respond to the 10-day letter and the hearing was scheduled for May 3, 2011. The Provider failed to appear at that hearing but requested the hearing be rescheduled. The hearing was rescheduled for July 12, 2011 and the Provider, again, failed to appear. The Respondent/Carrier (Carrier) was afforded the opportunity to present evidence regarding its appeal of the Medical Fee Dispute Resolution (MFDR) order dated February 8, 2011. The Carrier presented evidence and testimony at the April 7, 2011 pre-hearing and the record of that hearing was resubmitted as evidence at the July 12, 2011 hearing.

Requestor/Provider (Provider) billed for one unit under CPT code 99213 in the amount of \$96.00 for the service date of (Date of Injury). The charge was denied with ANSI code 29, untimely filing. The original bill was received by the Carrier on November 11, 2010. The evidence of timely filing that was submitted with the initial submission only reflected that the bill was sent to the Provider's electronic clearing house, (Billing Clearinghouse). The Provider submitted reconsideration on December 2, 2010. The documentation submitted with reconsideration also

did not provide convincing evidence to support the position that this bill was submitted timely to the Carrier.

On February 8, 2011, the Division's MFDR officer determined that the Provider had established that the bill was submitted timely and that reimbursement in the amount of \$95.92 was due. The MDR officer based this determination pursuant to a copy of a system generated bill status report from the Provider's electronic clearing house, (Billing Clearinghouse), which shows a bill was "printed and mailed" to the Carrier on July 9, 2010.

Ms. S, a representative from Medical Cost Containment Company, testified regarding the receipt of the bill for the date of service of (Date of Injury). Ms. S testified that the bill was submitted by the Provider to its billing clearinghouse, (Billing Clearinghouse). Ms. S testified that (Billing Clearinghouse) does not have connectivity to the Carrier's e-bill agent, J, and did not have connectivity in July 2010. Ms. S testified that, if (Billing Clearinghouse) cannot electronically communicate with the Carrier, then they are advised to tell the clients to "drop the bills to paper." Ms. S explained that (Billing Clearinghouse) advises the clearinghouse that the client needs to submit a paper bill since the clearinghouses are unable to communicate electronically. Ms. S testified that the Carrier received a fax (hard copy) of the bill in question on November 11, 2010. Ms. S testified that the bill was not mailed to the Carrier prior to November 2010 and that no CMS-1500 (Health Insurance Claim form) was provided to show that the bill was actually mailed to the Carrier prior to November 2010. Ms. S testified that the internal tracking printout that the MDR officer relied on only documents the status "PNM" on July 9, 2010 which is "print and mailed." Ms. S contends that this only documents that the bill was electronically sent to the mail room and not proof of physically mailing the document. The Provider failed to establish that the bill was actually printed and mailed to the Carrier in July 2010. Ms. S testified that, in fact, no bill dated July 9, 2010 was ever received by the Carrier and the Provider offered no evidence to the contrary.

Pursuant to Texas Labor Code Ann. §408.027, (a) a health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment. The evidence presented in this case is not sufficient to establish that the Provider's electronic clearing house submitted the bill timely to the Carrier nor was there sufficient evidence that the Carrier received this claim for reimbursement prior to November 11, 2010. The evidence is insufficient to show that the \$95.92 bill for services performed on (Date of Injury) was timely filed pursuant to Rule 133.20(b). Therefore, the preponderance of the evidence is contrary to the MFDR officer's decision dated February 8, 2011 and the Provider is not entitled to reimbursement for those services.

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 (Date of Injury), Claimant was the employee of (Employer), Employer.
3. Claimant sustained a compensable injury on (Date of Injury).
4. The Division sent a single document stating the true corporate name of the Carrier, and the name and street address of the Carrier's registered agent with the 10-day letter to Provider at its address of record. That document was admitted into evidence as Hearing Officer's Exhibit Number 3.
5. Although properly notified, Claimant and Provider did not appear for the contested case pre-hearing scheduled for April 7, 2011 or the contested case hearings scheduled for May 3, 2011 and July 12, 2011.
6. The Claimant's attendance at the pre-hearing and the subsequent hearings was excused.
7. No evidence was received to show that Provider had good cause for failing to appear for the medical fee contested case pre-hearing scheduled for April 7, 2011 or the contested case hearings scheduled for May 3, 2011 and July 12, 2011.
8. On February 8, 2011, the MFDR officer determined that the Provider is entitled to reimbursement in the amount of \$95.92 for the date of service of (Date of Injury).
9. The Carrier presented sufficient evidence that the bill for \$96.00 (approved by MFDR in the amount of \$95.92) for date of service of (Date of Injury) was not timely submitted by the Provider to the Carrier.
10. The preponderance of the evidence presented by the Carrier is contrary to the decision of the Medical Fee Dispute Resolution Findings and Decision that Provider is entitled to reimbursement in the amount of \$95.92 for date of service of (Date of Injury).

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 contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that Health and Medical Orthopedics, Provider, is entitled to reimbursement in the amount of \$95.92 for date of service of (Date of Injury).

DECISION

Health and Medical Orthopedics, Provider, is not entitled to reimbursement in the amount of \$95.92 for date of service of (Date of Injury).

ORDER

Provider is not entitled for the reimbursement at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury of (Date of Injury), in accordance with the Texas Labor Code §408.021.

The true corporate name of the insurance carrier is **WC SOLUTIONS** and the name and address of its registered agent for service of process is:

**JERRY EDWARDS
1004 MARBLE HEIGHTS DRIVE
MARBLE FALLS, TX 78654**

Signed this 12th day of July, 2011.

CAROL A. FOUGERAT
Hearing Officer