

MEDICAL CONTESTED CASE HEARING NO 12077
M4-11-2806-01

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 February 22, 2012, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the Medical Fee Dispute Resolution Findings and Decision that (Healthcare Provider), Petitioner, is not entitled to reimbursement in the amount of \$504.09 for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Sub-Claimant appeared and was assisted by TB, layperson
Respondent/Carrier appeared and was represented by RJ, attorney.
Claimant did not appear and her appearance was excused.

BACKGROUND INFORMATION

At the direction of Dr. A, D.O., Claimant underwent a shuntogram procedure at (Healthcare Provider) on July 20, 2010. Dr. A is a referral doctor from the Carrier's healthcare network (HCN) Treating Doctor. When (Healthcare Provider) submitted its billing for the procedure, Carrier denied payment because (Healthcare Provider) was not within the HCN. (Healthcare Provider) submitted the denial for medical fee dispute resolution (MFDR). The MFDR officer ruled in favor of Carrier because (Healthcare Provider) was an out-of-network provider who did not have approval to perform the services rendered and denied the \$504.09 requested by (Healthcare Provider). (Healthcare Provider) requested a medical contested case hearing and is seeking a ruling in its favor. (Healthcare Provider) contends Carrier knew or should have known (Healthcare Provider) was not within the HCN and Carrier should have notified (Healthcare Provider) it was not within the HCN. If (Healthcare Provider) had known they were not in the HCN, they could have applied for approval for the treatment or let Dr. A know they could not perform the procedure because they were not in the HCN. Carrier contends since (Healthcare Provider) did not get approval to perform out-of-network treatment, Carrier does not have to reimburse (Healthcare Provider).

There is no dispute Claimant was enrolled in an HCN and there is no argument (Healthcare

Provider) did not request specific approval from the network to perform the services rendered. (Healthcare Provider) is relying on the pre-authorization request for the services where its name was provided on the request as the setting for the services as documentation of either an approval request or notice to Carrier the services would be provided there. Petitioner contends Carrier had a duty to contact them and let (Healthcare Provider) know this was a network claim and (Healthcare Provider) was out-of-network. Carrier contends there is no such duty of Carrier and it was the responsibility of (Healthcare Provider) to get approval to perform the services. Carrier is correct.

Texas Insurance Code Section 1305.103(e) states a *treating doctor* shall provide health care to the employee... and shall make referrals to other network providers, “or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network.” This indicates it is the responsibility of the requesting physician or Treating Doctor to make the request for approval to use out-of-network providers. There is no evidence Dr. A or Claimant’s Treating Doctor requested a referral to an out-of-network provider or that the services Dr. A rendered were not available within the network. The pre-authorization request notes (Healthcare Provider) as the servicing provider but the pre-authorization itself only indicates the setting as “outpatient” and not to a specific provider. Dr. A and/or Claimant’s Treating Doctor failed to request a referral to an out-of-network provider indicating the services were not available within the network. The referral to (Healthcare Provider) was a referral to an out-of-network provider and Dr. A did not get the requisite approval of the Carrier for services outside the network. The MFDR order is upheld.

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 (Date of Injury), Claimant was the employee of (Employer), Employer.
 - C. On (Date of Injury), Claimant sustained a compensable injury.
 - D. On (Date of Injury), Employer provided workers’ compensation insurance with Liberty Mutual Fire Insurance Company.
 - E. The Medical Fee Dispute resolution officer determined (Healthcare Provider) should not be reimbursed \$504.09 for outpatient hospital services.

2. Carrier delivered to Provider 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. At all times pertinent to this dispute, Claimant was enrolled in a healthcare network.
4. (Healthcare Provider) is not in that network and provided services as an out-of-network provider.
5. There was no request by Dr. A or Claimant's Treating Doctor for approval for an out-of-network provider.

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 that (Healthcare Provider), Petitioner, is not entitled to reimbursement in the amount of \$504.09 for the compensable injury of (Date of Injury).

DECISION

Petitioner is not entitled to reimbursement in the amount of \$504.09 for the compensable injury of (Date of Injury).

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 **LIBERTY MUTUAL FIRE 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, TX 78701-3218**

Signed this 23rd day of February, 2012.

KEN WROBEL
Hearing Officer