

MEDICAL CONTESTED CASE HEARING NO. 13015
M4-12-0893-01

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.

ISSUE

A medical contested case hearing was held on September 18, 2012 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 the Claimant/Petitioner is not entitled to reimbursement of out-of-pocket expenses in the total amount of \$755.04 for dates of service May 17, 2010, May 28, 2010, June 8, 2010, November 12, 2010, December 3, 2010, February 2, 2011, March 25, 2011, May 11, 2011, August 15, 2011 and August 31, 2011 for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Claimant/Petitioner (hereinafter Claimant) appeared and was assisted by TL, ombudsman. Carrier/Respondent (hereinafter Carrier) appeared and was represented by RJ, attorney.

BACKGROUND INFORMATION

The evidence showed that the Claimant filed his request for MFDR with the Division on November 17, 2011 to seek reimbursement from the Carrier for out-of-pocket medical expenses that he incurred for dates of service, as noted above, from May 17, 2010 through August 31, 2011. The Claimant asserted at the hearing that the medical expenses in question were in connection with treatment of his compensable (Date of Injury) injury. The MFDR Findings and Decision correctly determined that, as to dates of service May 17, 2010, May 28, 2010, June 8, 2010 and November 12, 2010, the Claimant's request for MFDR is untimely under Division Rule 133.307 (c) (1) (A) since it was filed more than one year after the dates of service in dispute. Under these circumstances, the Claimant has not established that reimbursement is due for dates of service May 17, 2010, May 28, 2010, June 8, 2010 or November 12, 2010.

Regarding the remaining dates of service, from December 3, 2010 through August 31, 2011, the threshold question is whether the Claimant provided proof to the Division that he had presented his request for reimbursement with attached documentation to the Carrier prior to seeking

MFDR, as required by Rules 133.270 and 133.307 (c) (4) (I). The evidence presented to the MFDR officer, as well as to the undersigned, does not show that his request for reimbursement along with supporting documentation for these dates of service were submitted to the Carrier prior to seeking MFDR by the Division. For this reason, the Claimant has not established that reimbursement is due for the dates of service December 3, 2010, February 2, 2011, March 25, 2011, May 11, 2011, August 15, 2011 or August 31, 2011.

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), the Employer provided workers' compensation insurance with Liberty Insurance Corp., Carrier.
 - D. On (Date of Injury), the Claimant sustained a compensable injury while in the course and scope of his employment with (Employer).
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. The MFDR Findings and Decision determined that the Claimant is not entitled to reimbursement for dates of service May 17, 2010, May 28, 2010, June 8, 2010, November 12, 2010, December 3, 2010, February 2, 2011, March 25, 2011, May 11, 2011, August 15, 2011 and August 31, 2011.
4. The Claimant did not produce sufficient evidence to show that the preponderance of the evidence is contrary to the MFDR Findings and Decision described in Finding of Fact no. 3 above.

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 MFDR Findings and Decision that the Claimant has not established that reimbursement is due for dates of service May 17, 2010, May 28, 2010, June 8, 2010, November 12, 2010, December 3, 2010, February 2, 2011, March 25, 2011, May 11, 2011, August 15, 2011 and August 31, 2011.

DECISION

The preponderance of the evidence is not contrary to the MFDR Findings and Decision that the Claimant has not established that reimbursement is due for dates of service May 17, 2010, May 28, 2010, June 8, 2010, November 12, 2010, December 3, 2010, February 2, 2011, March 25, 2011, May 11, 2011, August 15, 2011 and August 31, 2011.

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 INSURANCE CORPORATION**, 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**

Signed this 5th day of November, 2012.

Patrice Fleming-Squirewell
Hearing Officer