

MEDICAL CONTESTED CASE HEARING NO. 13096

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 (MCCH) was held on May 2, 2013 to decide the following disputed issue:

Is a preponderance of the evidence contrary to the Medical Fee Dispute Resolution Findings and Decision (MFDRFD) that VVA, M.D., P.A. is entitled to additional reimbursement in the amount of \$381.11 for a urine drug screen for date of service September 20, 2011 for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Carrier (hereinafter "Carrier") appeared and was represented by BJ, attorney. Respondent/Provider (hereinafter "Provider") did not appear for the May 2, 2013 MCCH and did not respond to a 10-day letter from the Division. Claimant did not appear and her appearance was excused.

BACKGROUND INFORMATION

Although properly notified, Provider failed to appear for the contested case hearing scheduled for 2:00 p.m. on May 2, 2013. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Provider the opportunity to respond and request that the hearing be rescheduled to permit that entity to present evidence on the disputed issue was mailed to Provider on May 6, 2013. Provider failed to respond to the Division's 10-day letter and, on May 21, 2013, the record was closed.

The evidence presented in the hearing revealed that Provider sought payment from Carrier for urine drug testing of Claimant that it administered during a patient visit on September 20, 2011. In its request, Provider billed Carrier using Current Procedural Terminology (CPT) Codes. The source of this medical fee dispute case appears to derive from Provider's multiple billing submissions under the following CPT Codes – 80299 ("QUANTITATION OF DRUG") and 83925 ("OPIATES DRUG & METABOLITES"). The evidence reflected that, in its first request for payment received by Carrier on October 24, 2011, Provider billed Carrier for two units under CPT Code 80299 and two units under CPT Code 83925. Apparently, on the same day, Provider

submitted another request to Carrier, but, in this request, only one unit under CPT Code 80299 was billed. Provider's initial request for payment was denied in full by Carrier. Provider requested reconsideration from Carrier on December 13, 2011. In its initial bill submission on reconsideration, Provider requested payment for two units each under CPT Codes 80299 and 83925. Shortly after this request was received, Provider submitted another request. In the later billing, Provider requested payment for two units under CPT Code 83925 and one unit under CPT Code 80299. The evidence reflects that Provider's request for payment on reconsideration was also fully denied by Carrier. Provider sought relief through the Division's Medical Fee Dispute Resolution (MFDR) section in order to obtain reimbursement from Carrier. Provider's DWC Form-060 ("Medical Fee Dispute Resolution Request/Response") was received by the Division on May 14, 2012.

Carrier put forth testimony in the hearing from RB, a Senior Dispute Analyst with Carrier. Mr. B's testimony highlighted the considerable confusion caused by Provider's multiple billing submissions and its failure to explain the relationship between the first and second requests. Mr. B's testimony indicated that it was unclear as to whether the later billings from Provider were meant to be a part of the same bill or if they were different bills entirely. The only relationship between the bills appeared to be that they came from the same Provider, were for the same Claimant, and reflected the same date of service.

On January 24, 2013, the Division's MFDR Officer issued a decision ("Medical Fee Dispute Resolution Findings and Decision" or MFDRFD) holding that Provider was entitled to reimbursement in the amount of \$381.11 from Carrier. The MFDR Officer appeared to include Provider's first and second billings on reconsideration as part of the same bill and, consequently, ordered reimbursement of three units under CPT Code 80299 and four units under CPT Code 83925.

Division Rule 134.203 ("Medical Fee Guideline for Professional Services"), provides as follows at subsection (e) –

"The MAR [maximum allowable reimbursement] for pathology and laboratory services not addressed in subsection (c)(1) of this section or in other Division rules shall be determined as follows:

- (1) 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service; and,
- (2) 45 percent of the Division established MAR for the code derived in paragraph (1) of this subsection for the professional component of the service."

In accordance with the Rule above, the MFDR Officer calculated as follows the amount of the MAR for CPT Codes 80299 and 83925, respectively –

$$\$19.27 \times 1.25 \times 3 \text{ units} = \$508.20$$

$$\$27.38 \times 1.25 \times 4 \text{ units} = \$31.00$$

Carrier pointed to internal inconsistencies and material typographical errors within the MFDRFD.¹ The evidence presented by Carrier in the hearing was found to be persuasive that, based on the actual laboratory testing results in evidence for the urine drug screen at issue, Provider is only entitled to reimbursement for one unit under CPT Code 80299 and two units under CPT Code 83925. The correct calculation of MAR based on this evidence is as follows for CPT Codes 80299 and 83925, respectively –

$$\$19.27 \times 1.25 \times 1 \text{ unit} = \$24.0875 \text{ (rounded up to } \$24.09)$$

$$\$27.38 \times 1.25 \times 2 \text{ units} = \$68.46$$

A preponderance of the evidence is thus found to be contrary to the MFDRFD that Provider is entitled to reimbursement in the total amount of \$381.11 for the urine drug screen for date of service September 20, 2011 for Claimant's compensable injury of (Date of Injury). The amount of reimbursement to which Provider is entitled is reduced from \$381.11 to \$264.47.

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. Carrier 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, and sustained a compensable injury.

¹On p. 3 of the MFDRFD, the MFDR Officer cites that Provider billed for "one" unit of CPT Code 80299 and "two" units under CPT Code 83925, but the Officer nonetheless ordered reimbursement for three and four units, respectively, under those CPT Codes. The \$508.20 and \$31.00 figures found above and on p. 4 of the MFDRFD appear to be typographical errors and should be, respectively, \$72.27 and \$136.92 instead. The \$28.73 MAR calculation for CPT Code 82520 and the six instances of \$102.68 as the MAR for CPT Codes 82145, 82055, 83840, 83992, 82205, and 80154 also appear to be typographical errors in the MFDRFD and do not reflect the reimbursement amounts actually ordered by the MFDR Officer under those CPT Codes. Carrier's position in the hearing was that it was only challenging the reimbursement amounts under CPT Codes 80299 and 83925 ordered in the MFDRFD and not the amounts ordered under the other CPT Codes in the MFDRFD.

- C. On (Date of Injury), Employer provided workers' compensation insurance coverage through Texas Mutual Insurance Company.
- D. The Medical Fee Dispute Resolution (MFDR) Officer determined that Provider was entitled to additional reimbursement in the amount of \$381.11 for the urine drug screen of date of service September 20, 2011.
2. The Division sent a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent to Provider at its address of record. That document was admitted into evidence as Hearing Officer's Exhibit Number 2.
 3. As part of the determination on reimbursement in this case, the MFDR Officer determined in the Medical Fee Dispute Resolution Findings and Decision (MFDRFD) that Provider was entitled to reimbursement from Carrier for three units under CPT Code 80299 ("QUANTITATION OF DRUG") and four units under CPT Code 83925 ("OPIATES DRUG & METABOLITES") as a result of the urine drug screen for date of service September 20, 2011.
 4. The maximum allowable reimbursement (MAR) pursuant to Division Rule 134.203(e) for three units under CPT Code 80299 is \$72.27.
 5. The MAR pursuant to Division Rule 134.203(e) for four units under CPT Code 83925 is \$136.92.
 6. Based on the laboratory testing results in evidence, Provider is only entitled to reimbursement from Carrier for one unit under CPT Code 80299 and two units under CPT Code 83925 for the urine drug screen for date of service September 20, 2011.
 7. The MAR pursuant to Division Rule 134.203(e) for one unit under CPT Code 80299 is \$24.09.
 8. The MAR pursuant to Division Rule 134.203(e) for two units under CPT Code 83925 is \$68.46.
 9. The MAR for three units under CPT Code 80299 (\$72.27) plus the MAR for four units under CPT Code 83925 (\$136.92) equals \$209.19.
 10. The MAR for one unit under CPT Code 80299 (\$24.09) plus the MAR for two units under CPT Code 83925 (\$68.46) equals \$92.55.
 11. \$92.55 subtracted from \$209.19 equals \$116.64.
 12. Provider's total reimbursement for the urine drug screen for the September 20, 2011 date of service is calculated by subtracting \$116.64 from \$381.11.

13. Provider failed to appear for the May 2, 2013 medical contested case hearing (MCCH) and did not respond to the Division's letter offering it the opportunity to have the hearing rescheduled.

14. Provider did not have good cause for failing to appear at the MCCH of May 2, 2013.

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. A preponderance of the evidence is contrary to the Medical Fee Dispute Resolution Findings and Decision (MFDRFD) that VVA, M.D., P.A. is entitled to additional reimbursement in the amount of \$381.11 for a urine drug screen for date of service September 20, 2011 for the compensable injury of (Date of Injury). The amount of additional reimbursement to which Provider is entitled for that testing is reduced from \$381.11 to \$264.47.

DECISION

VVA, M.D., P.A.'s entitlement to additional reimbursement for a urine drug screen for date of service September 20, 2011 for the compensable injury of (Date of Injury) is reduced from \$381.11 to \$264.47.

ORDER

Carrier is liable for reimbursement at issue in this hearing in the amount of \$264.47. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

RICHARD J. GERGASKO
TEXAS MUTUAL INSURANCE COMPANY
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723

Signed this 23rd day of May, 2013.

Jennifer Hopens
Hearing Officer