

MEDICAL CONTESTED CASE HEARING NO. 14008

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 October 1, 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 (Healthcare Provider 2) is entitled to additional reimbursement in the amount of \$612.00 for a functional capacity evaluation (FCE) for date of service July 15, 2009 for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Carrier (hereinafter "Carrier") appeared and was represented by TR, attorney. Respondent/Provider (hereinafter "Provider") did not appear for the October 1, 2013 MCCH. Claimant did not appear and his appearance was excused.

BACKGROUND INFORMATION

On May 30, 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 \$612.00 from Carrier.

The Provider sought payment from Carrier for an FCE of Claimant that it administered during a patient visit on July 15, 2009. (Healthcare Provider 1), an entity established by Dr. D, essentially required an FCE to be ordered for every designated doctor examination, whether the designated doctor was of the opinion such a test was necessary or even aware that one had been ordered. (Healthcare Provider 1) also routinely billed the maximum permissible time for FCE's, four hours, even though the evidence adduced indicates that the typical FCE would take a fraction of that time.

When it was discovered that (Healthcare Provider 1) was billing fraudulently for services that were either not provided, were unnecessary, or simply took far less time than claimed, Dr. D established a new entity, (Healthcare Provider 2), with a new tax identification number to continue the practice in the hopes of evading detection by fraud investigators.

Carrier put forth testimony in the hearing from Ms. H, a Senior Investigator with Carrier. Ms. H's testimony highlighted the exaggerated and unnecessary nature of the Provider's billing practices and its failure to explain the actual duration of the FCE's. Dr. D has been convicted of fraudulent billing practices and ordered to pay restitution to the Carrier.

The Carrier's evidence also indicates that the services billed did not conform to AMA CPT code 97750 for the service rendered, which specifically requires "direct one-on-one patient contact." The evidence indicates that the four hours for which FCE's were routinely billed by the provider failed to comply with that requirement.

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 \$612.00 for the FCE for date of service July 15, 2009 for Claimant's compensable injury of (Date of Injury). The amount of reimbursement to which Provider is entitled is reduced from \$612.00 to \$0.00.

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 (Date of Injury), Claimant was the employee of (Employer), Employer, and sustained a compensable injury.
3. On (Date of Injury), Employer provided workers' compensation insurance coverage through Texas Mutual Insurance Company.
4. The Medical Fee Dispute Resolution (MFDR) Officer determined that Provider was entitled to additional reimbursement in the amount of \$612.00 for the FCE of date of service July 15, 2009.
5. 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.
6. The services for which Provider billed under AMA CPT Code 97750 were not shown to be necessary and were billed at an excessive rate.
7. No evidence was produced by the Provider to show the actual duration of the Functional Capacity Evaluation at issue.

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 (Healthcare Provider 2) is entitled to additional reimbursement in the amount of \$612.00 for an FCE for date of service July 15, 2009 for the compensable injury of (Date of Injury). The amount of reimbursement to which Provider is entitled for that testing is reduced from \$612.00 to \$0.00.

DECISION

(Healthcare Provider 2) is not entitled to reimbursement in the amount of \$612.00 for an FCE for date of service July 15, 2009 for the compensable injury of (Date of Injury). The amount of reimbursement to which Provider is entitled for that testing is reduced from \$612.00 to \$0.00.

ORDER

Carrier is not liable for reimbursement at issue in this hearing in the amount of \$612.00. 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 1st day of October, 2013.

Robert Greenlaw
Hearing Officer