

MEDICAL CONTESTED CASE HEARING NO. 14021

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 October 24, 2013, to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that (Healthcare Provider), Respondent/Provider, is entitled to reimbursement in the amount of \$612.00 for Claimant's compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Carrier appeared and was represented by TR, attorney. Respondent/Provider did not appear and did not respond to a 10-day letter sent after the pre-hearing held on September 26, 2013. Claimant did not appear and his appearance was excused.

EVIDENCE PRESENTED

No witness testified.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits HO-1 through HO-3

Claimant had no exhibits admitted.

Carrier's Exhibits P-1 through P-5

Provider had no exhibits admitted.

BACKGROUND INFORMATION

Although properly notified, Provider failed to appear for the medical fee contested case pre-hearing scheduled for 2:00 p.m. on September 26, 2013. A letter advising the pre-hearing had convened and the record would be held open for ten days to afford Provider the opportunity to respond and request the pre-hearing be rescheduled to permit it to present evidence on the disputed issue was mailed to Provider on September 30, 2013. Provider failed to respond to the Division's 10-day letter. The letter was returned as "Unavailable." The medical contested case hearing was held as scheduled on October 24, 2013.

On May 23, 2013, the Division Medical Fee Dispute Resolution Officer issued a decision holding that Provider was entitled to reimbursement in the amount of \$612.00 from Carrier for services rendered as a functional capacity evaluation performed on July 09, 2009. The services were allegedly performed during a Designated Doctor examination of Claimant for the compensable injury of (Date of Injury).

Carrier's evidence indicates the services billed did not conform to AMA CPT code 97750 for the services rendered. The code specifically requires billing only for one-on-one direct face time. Provider's reconsideration of the denied billing indicates it included medical preparation, determining claimant's physical needs in order to outline a proper evaluation, creating a testing format for each individual claimant, and other administrative duties not related to direct one-on-one time. The reconsideration did not explain the services performed for this Claimant but just a general boilerplate form describing services it allegedly provides on each claimant, most of which are not one-on-one direct face time. The evidence indicates the four hours that were billed by the Provider were not actually provided as billed and failed to comply with the billing requirements for CPT code 97750. No evidence was provided indicating the amount of time that was actually spent testing.

The preponderance of the medical evidence is contrary to the Medical Fee Dispute Resolution decision that Provider is entitled to be reimbursed in the amount of \$612.00 for the FCE allegedly performed on July 09, 2009. The amount of reimbursement to which the provider is entitled is reduced 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. 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 sustained a compensable injury.
 - C. On (Date of Injury), Employer provided workers' compensation insurance with Texas Mutual Insurance Company.
 - D. The Medical Fee Dispute Resolution Officer determined (Healthcare Provider) should be reimbursed in the amount of \$612.00.
2. The Division sent a single document stating the true corporate name of the Carrier and the name and street address of Carrier's registered agent for service with the 10-day letter to the

Provider at Provider's last known address of record. That document was admitted into evidence as Hearing Officer Exhibit Number 2.

3. The services for which Provider billed under AMA CPT code 97750 were not shown to be necessary and were billed at an excessive rate.
4. No evidence was produced by Provider to show the actual duration of the FCE.
5. Provider did not have good cause for failing to appear at the contested case hearing.

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 (Healthcare Provider), Provider, is entitled to reimbursement in the amount of \$612.00 for Claimant's 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

Provider is not entitled to reimbursement in the amount of \$612.00 for Claimant's 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 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 **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RICHARD GERGASKO, PRESIDENT
6210 HIGHWAY 290 EAST
AUSTIN, TEXAS 78723.**

Signed this 24th day of October, 2013.

KEN WROBEL
Hearing Officer