

MEDICAL CONTESTED CASE HEARING NO. 14031

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 opened on July 29, 2013, continued on September 16, 2013, and was concluded on November 19, 2013, with the record closing on that date, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of Medical Review that Respondent/Provider is entitled to additional reimbursement in the amount of \$1,761.57 plus applicable accrued interest for dates of service of November 12-26, 2008?

PARTIES PRESENT

On July 29, 2013 Petitioner/Carrier appeared and was represented by PP, attorney. Respondent/Provider did not appear. Claimant did not appear.

On September 16, 2013 Petitioner/Carrier appeared and was represented by PP, attorney. Respondent/Provider did not appear. Claimant did not appear.

On November 19, 2013 Petitioner/Carrier appeared and was represented by PS, attorney. Respondent/Provider did not appear. Claimant did not appear.

EVIDENCE PRESENTED

The following witnesses testified:

For Claimant: None.

For Carrier: None.

For Provider: None.

The following exhibits were admitted into evidence:

Hearing Officer's Exhibits: HO-1 and HO-2.

Claimant's Exhibits: None.

Carrier's Exhibits: CR-A through CR-E.

Provider's Exhibits: None.

BACKGROUND INFORMATION

The hearing opened on July 29, 2013. Carrier appeared and was represented by an attorney. Provider did not appear. Claimant did not appear. Ten day letters were sent to Provider and Claimant. Hearing Officer's Exhibits HO-1 and HO-2 and Carrier's Exhibits CR-A through CR-D were admitted into evidence. No evidence was offered by or in behalf of Provider or Claimant. Carrier's motion for continuance was granted.

On September 16, 2013 the hearing resumed. Carrier appeared and was represented by an attorney. Provider did not appear. Claimant did not appear. There was no response to the Division's 10 day letters.

There was no testimony. The evidence consisted of Hearing Officer's Exhibits HO-1 (Medical Fee Dispute Resolution findings and decision and DWC-45A) and HO-2 (Carrier information form) and Carrier's Exhibits CR-A (exhibit list), CR-B (managed care services agreement), CR-C (Medical Fee Dispute Resolution findings and decision), and CR-D (dispute documentation).

The case comes down to whether the fees in question were subject to a contractual agreement between Carrier and Provider. Carrier failed to offer sufficient documentation to the Medical Fee Dispute Resolution Officer (MF), and she ruled in favor of Provider.

Carrier argued there was a contractual relationship, as shown by its exhibits, however it developed that a lot of Carrier's documentary evidence concerned a different medical fee dispute also involving a person named JP. Carrier's motion for continuance was granted.

On November 19, 2013 the hearing resumed. Carrier appeared and was represented by an attorney. Provider did not appear. Claimant did not appear. There was no additional offer of evidence by Carrier. The alleged contractual agreement was never produced. Carrier failed to overcome the Medical Review decision by the preponderance of the evidence.

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) Employer provided workers' compensation insurance with American Guarantee and Liability Insurance Company, Carrier.
 - D. On (Date of Injury) Claimant sustained a compensable injury.
 - E. Medical Review determined that Provider is entitled to additional reimbursement in the amount of \$1,761.57 plus applicable accrued interest for date of service of November 12-26, 2008.
2. The Division sent to Claimant and Provider at their addresses of record with the 10 day letters 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. Medical Review determined that Respondent/Provider is entitled to additional reimbursement in the amount of \$1,761.57 plus applicable accrued interest for date of service of November 12-26, 2008.
 4. Carrier reduced payment for the disputed services "due to PPO contract".
 5. There was no showing that the disputed services were subject to a contractual agreement between Carrier and Provider.
 6. Provider failed to appear for the July 29, 2013 contested case hearing and did not respond to the Division's letter offering Provider the opportunity to have the hearing rescheduled.
 7. There was no showing of good cause for Provider's failure to appear at the contested case hearing.
 8. Claimant failed to appear for the July 29, 2013 contested case hearing and did not respond to the Division's letter offering Claimant the opportunity to have the hearing rescheduled.
 9. There was no showing of good cause for Claimant's failure 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 not contrary to the decision of Medical Review that Respondent/Provider is entitled to additional reimbursement in the amount of \$1,761.57 plus applicable accrued interest for dates of service of November 12-26, 2008.

DECISION

The preponderance of the evidence is not contrary to the decision of Medical Review that Respondent/Provider is entitled to additional reimbursement in the amount of \$1,761.57 plus applicable accrued interest for dates of service of November 12-26, 2008.

ORDER

Carrier is liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with Section 408.021 of the Act.

The true corporate name of the insurance carrier is **AMERICAN GUARANTEE AND LIABILITY 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, TEXAS 78701**

Signed this 19th day of November, 2013.

Thomas Hight
Hearing Officer