

**DOCKET NO. 453-03-2513.M5  
TWCC NO. M5-03-0197-01**

**WILLIAM E. SANDERS, M.D.,  
Petitioner**

**v.**

**NATIONAL SURETY CORPORATION,  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

**I. PROCEDURAL HISTORY**

Petitioner William E. Sanders, M.D., (Provider) appealed the Findings and Decision of the Texas Worker's Compensation Commission's (TWCC) Medical Review Division (MRD) denying reimbursement for medical services provided to \_\_\_ (Claimant). This decision orders the Carrier to reimburse the Provider \$910.50 for procedures performed on the lateral and medial portions of the elbow provided under CPT Codes 64718 and 25210. This decision does not order reimbursement for a procedure performed on the palm under CPT Code 24356-51.

The Administrative Law Judge convened a hearing on May 5, 2003. The hearing was concluded and the record closed that date. The Carrier was represented by Steve Tipton, attorney. The Provider appeared by telephone.

**II. EVIDENCE AND BASIS FOR DECISION**

The dispute presented in this proceeding is whether the Provider should receive additional reimbursement for multiple procedures done on October 12, 2001. Petitioner testified that the procedures were unrelated, were each performed for a different diagnosis, and were performed through different incisions. Provider performed five procedures on Claimant, two of which are not in dispute. The three procedures in dispute were performed through three incisions on the lateral and medial portions of the elbow and palm. Carrier presented no testimony at the hearing but did offer documents. Nothing in Carrier's evidence addressed the issue of whether the procedures in the area of the elbow were related to each other or any other procedure. Additionally, Carrier presented no evidence to the MRD. One document offered by Carrier, two pages entitled "Nervous System, American Academy of Orthopaedic Surgeons," listed one of the procedures- the surgery performed on the palm, as global to orthopedic surgery. The Provider offered no evidence contrary to the document. The record in this matter is sparse to say the least, as neither party provided any detailed evidence concerning the procedures. The ALJ reviewed the audiotape of this hearing several times in

an attempt to better understand the procedures provided, but little information was gained. The ALJ is, therefore, left with only the testimony of the provider indicating that the two procedures performed on the elbow were unrelated to any other procedure and the documentary evidence indicating that the surgery performed on the palm was part of another procedure.

The Provider billed \$1,113.00 for CPT Code 64718 and the Carrier reduced it to \$556.00. The Provider billed \$708.00 for CPT Code 25210 and the Carrier reduced it to \$354.00. Both were reduced by 50% per the Multiple Procedure Reimbursement Rule.<sup>1</sup> Based on the fact that there is no evidence in the record that the above were multiple procedures, the ALJ concludes that the reductions were improper.

The Provider billed \$404.50 for CPT Code 24356-51 and the Carrier refused payment. Because the only evidence in the record is that the procedure is global to another procedure, the Provider is not entitled to reimbursement.

### **III. FINDINGS OF FACT**

1. On \_\_\_\_, \_\_\_\_ (Claimant) suffered a compensable injury.
2. Claimant's injury is covered by worker's compensation insurance written for Claimant's employer by National Surety Corporation (Carrier).
3. William E. Sanders, M.D. (Provider) treated the Claimant's injury by performing five surgical procedures on October 12, 2001.
4. Two of the five procedures are not in dispute.
5. The Provider billed \$1,113.00 for CPT Code 64718 and the Carrier reduced it to \$556.00.
6. The Provider billed \$708.00 for CPT Code 25210 and the Carrier reduced it to \$354.00.
7. The Provider billed \$404.50 for CPT Code 24356-51 and the Carrier refused payment.
8. The procedures referred to in Findings of Fact Nos. 5 and 6 were performed through separate incisions and were each performed for a different diagnosis.
9. The procedure referred to in Finding of Fact No. 7 was part of another procedure.

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<sup>1</sup> Medical Fee Guideline Surgery Ground Rule I. D. 1. b. ii. provides that the Multiple Procedure Reimbursement Rule is 50% of the MAR for secondary or subsequent procedures when the secondary or subsequent procedures are not performed through the same incision but are related to the primary procedure.

10. The Carrier reduced the reimbursement paid to the Provider for the procedures referred to in Findings of Fact Nos. 5 and 6 by 50%.
11. The Carrier refused reimbursement for the procedure referred to in Finding of Fact No. 7.
12. The Provider timely requested dispute resolution by the Texas Workers' Compensation Commission Medical Review Division (MRD).
13. The MRD issued its findings and decision on January 17, 2003, concluding that the disputed expenses should not be paid, and the Provider timely appealed this decision.

#### **IV. CONCLUSIONS OF LAW**

The Texas Workers' Compensation Commission (TWCC) has jurisdiction to decide the issues presented pursuant to TEX. LABOR CODE §413.031.

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Decision and Order, pursuant to TEX. LABOR CODE §413.031 and TEX. GOV'T CODE ch. 2003.
2. The Notice of Hearing issued by TWCC conformed to the requirements of TEX. GOV'T CODE §2001.052 in that it contained a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular section of the statutes and rules involved; and a short plain statement of the matters asserted.
3. The Provider has the burden of proving by a preponderance of the evidence that it should prevail in this matter. TEX. LABOR CODE §413.031.
4. Based on the above Findings of Fact and Conclusions of Law the Carrier the Provider is entitled to additional reimbursement from the Carrier in the amount of \$910.50 plus interest.

**ORDER**

IT IS, THEREFORE, ORDERED that National Surety Corporation reimburse William E. Sanders, M.D. for fees incurred in treating the Claimant in the amount of \$910.50 plus interest.

**ISSUED this 27<sup>th</sup> day of June 2003.**

**JOHN H. BEELER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**