

SOAH DOCKET NO. 453-05-4457.M5
MDR Tracking No. M5-05-1185-01

ST. PAUL TRAVELERS	§	BEFORE THE STATE OFFICE
INSURANCE CO.,	§	
Petitioner	§	
	§	
VS.	§	OF
	§	
REHAB 2112, LLC,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. DISCUSSION

The workers' compensation claimant in this case underwent a work hardening program in 2004. The carrier, St. Paul Travelers Insurance Co. (St. Paul), declined to reimburse the provider, Rehab 2112, LLC, (Rehab 2112) for the work hardening services. An Independent Review Organization (IRO) determined that the work hardening program was not medically necessary. The Medical Review Division (MRD) of the Texas Workers' Compensation Commission (TWCC)¹ issued an order adopting the IRO's decision but ordering reimbursement for one date of service B April 21, 2004 B because St. Paul had failed to provide an explanation of benefits (EOB) to the MRD for that particular date. St. Paul requested a hearing before the State Office of Administrative Hearings (SOAH). The amount in dispute is \$320.00.

At the SOAH hearing, St. Paul provided an EOB for April 21, 2004, showing that reimbursement for the work hardening services delivered that day was being denied for a lack of medical necessity.² The EOB was dated May 12, 2004. Rehab 2112 provided EOBs it received for dates of service April 13, 14, 16, 19, 22, 23, 26, 27, 28, and 29,³ but asserts that it never received an EOB for April 21 and the evidence fails to show that St. Paul actually mailed the EOB.

¹ Effective September 1, 2005, the functions of the Commission were transferred to the newly created Division of Workers' Compensation at the Texas Department of Insurance (TDI).

² Carrier Exhibit 1.

³ Provider Exhibit 1. Those EOBs all reflect denial of reimbursement based on an assertion that the services were unnecessary.

In ordering reimbursement for the April 21 services, the MRD cited to 28 TEX. ADMIN. CODE §133.307(e)(2)(B), (3)(B) B a rule requiring a respondent in a medical dispute to provide the MRD with the relevant EOBs. The rule is designed to provide a mechanism by which the MRD could obtain the information necessary to make a decision on the contested issues. The rule does not say that a carrier's inadvertent failure to supply an EOB to the MRD forever waives the carrier's basis for denial.

It is clear that an EOB for April 21, 2004, exists and cites to denial codes for unnecessary treatment. It is also clear that the IRO determined that the work hardening program, of which the services delivered on April 21 were a small part, was unnecessary in its entirety. Even if Rehab 2112 never received the one EOB at issue here, the provider was certainly on notice from all the other EOBs that St. Paul contended the work hardening program was unnecessary. The Texas Labor Code (Code) provides for reimbursement only for reasonable and necessary medical treatment.⁴ Therefore, reimbursement is not warranted under the Act.

II. FINDINGS OF FACT

1. St. Paul Travelers Insurance Company (St. Paul) is the workers' compensation insurer with respect to the claims at issue in this case.
2. The worker's compensation claimant in this case underwent a work hardening program in 2004. The program was administered by Rehab 2112, LLC, (Rehab 2112).
3. St. Paul declined to reimburse Rehab 2112 for the work hardening services.
4. Rehab 2112 requested medical dispute resolution.
5. An Independent Review Organization (IRO) determined that the work hardening program was not medically necessary.
6. The Medical Review Division (MRD) of the Texas Workers' Compensation Commission issued an order on January 26, 2005, adopting the IRO's decision but ordering reimbursement for one date of service B April 21, 2004 B because St. Paul had failed to provide to the MRD an explanation of benefits (EOB) for that particular date.
7. St. Paul requested a hearing before the State Office of Administrative Hearings (SOAH) concerning the April 21, 2004, date of service.

⁴ TEX. LAB. CODE § 408.021.

8. The amount in dispute is \$320.00.
9. Notice of the hearing was issued March 7, 2005.
10. The notice 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 sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
11. The hearing was convened on October 4, 2005, before SOAH Judge Shannon Kilgore. Patrick Groves, attorney, appeared by telephone on behalf of St. Paul. Robert Kubicki, attorney, appeared by telephone for Rehab 2112. The hearing adjourned, and the record closed, the same day.
12. An EOB dated May 12, 2004, reflects that reimbursement for the work hardening services delivered on April 21, 2004, was denied for a lack of medical necessity.

III. CONCLUSIONS OF LAW

1. The Division of Workers' Compensation at the Texas Department of Insurance (TDI) has jurisdiction over this matter. TEX. LAB. CODE ch. 401 *et seq.* (the Act).
2. Effective September 1, 2005, the functions of the Texas Workers' Compensation Commission were transferred to the newly created Division of Workers' Compensation at TDI.
3. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order. TEX. LAB. CODE § 413.031; TEX. GOV'T CODE ch. 2003.
4. Adequate and timely notice of the hearing was provided in accordance with the Administrative Procedure Act. TEX. GOV'T CODE § 2001.052.
5. St. Paul has the burden of proof in this matter. 28 TEX. ADMIN. CODE § 148.14; TEX. LABOR CODE § 413.031.
6. The Texas Labor Code (Code) provides for reimbursement for reasonable and necessary medical treatment. TEX. LAB. CODE § 408.021.
7. The rule at 28 Texas Administrative Code § 133.307(e)(2)(B), (3)(B) requires a respondent in a medical dispute to provide the MRD with the relevant EOBs, but does not say that a carrier's inadvertent failure to supply an EOB to the MRD forever waives the carrier's basis for denial.
8. The foregoing Findings of Fact and Conclusions of Law support a determination that St. Paul need not reimburse Rehab 2112 for work hardening services delivered to the claimant on April 21, 2004.

ORDER

IT IS THEREFORE ORDERED that St. Paul Travelers Insurance Company need not reimburse Rehab 2112, LLC, for work hardening services delivered to claimant __on__.

Signed December 2, 2005.

Shannon Kilgore
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS