

SOAH DOCKET NO. 453-03-3093.M4

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| VISTA HEALTHCARE, INC., | § | BEFORE THE STATE OFFICE |
| Petitioner, | § | |
| | § | |
| v. | § | OF |
| | § | |
| HARTFORD INSURANCE COMPANY, | § | |
| Respondent. | § | ADMINISTRATIVE HEARINGS |

DECISION AND ORDER

I. INTRODUCTION

Vista Healthcare, Inc. (Vista) requested a hearing to contest a decision by the Medical Review Division (MRD) of the Texas Workers’ Compensation Commission (Commission) denying additional payment for services it provided to an injured worker at its ambulatory surgical center (ASC).¹ Vista operated ASCs in Houston, Texas, and provided surgical services to patients not requiring in-patient hospitalization. Vista billed Hartford Insurance Company (Carrier) \$6,836.81 for services provided to Claimant on August 16, 2001. Carrier reimbursed less than the billed amount and Vista requested medical dispute resolution before MRD, which declined to order any additional payment for the services. Vista has the burden of proving that it is entitled to additional payment for the services rendered. After considering the evidence and arguments presented by the parties, the Administrative Law Judge (ALJ) concludes Vista failed to meet that burden and it is not entitled to additional reimbursement.

II. APPLICABLE LAW

Section 413.011 of the Texas Workers’ Compensation Act (the Act), found at TEX. LAB. CODE ANN. § 401.001, *et seq.* Act, provides that the Commission by rule shall establish medical policies and guidelines relating to fees charged or paid for medical services provided to employees who suffer compensable injuries, including guidelines relating to payment of fees for

¹ Effective September 1, 2005, the functions of the Commission were transferred to the newly-created Division of Workers’ Compensation of the Texas Department of Insurance. This case arose before that transfer of authority, but only recently went to hearing because of related ongoing litigation that had a bearing on the handling of ambulatory surgical center cases.

specific medical treatments or services.² The section further provides that guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control.

As discussed below, however, the ALJ does not need to consider whether the amount billed was fair and reasonable.

III. DISCUSSION AND ANALYSIS

This case involves services provided to Claimant on August 16, 2001. However, Vista introduced evidence relating to services that were provided on a different date, *i.e.*, April 12, 2001. Pet. Exs. 1-6.³ The MRD considered only services that were provided on August 16. The MRD decision refers to Vista's billed charges in the amount of \$6,836.81 and Carrier's payment of \$1,548.00. Additional information explaining the basis for the charges and payment is not available.

The MRD did not consider the April 12 services or whether Petitioner's charges for them were fair and reasonable. At this hearing, Vista did not present any evidence describing the August 16 services or the amount that was billed to Carrier for those services. The evidence presented by Vista in this matter is insufficient to establish a request for additional payment because it does not relate to the services in dispute on August 16. Consequently, Vista has failed to meet its burden of proof in this matter.

IV. FINDINGS OF FACT

1. The claimant received care at a Vista Healthcare, Inc., Ambulatory Surgery Center (ASC) facility for his compensable, work-related injury on August 16, 2001.

² TEX. LAB. CODE ANN. § 401.011(19) and (31). Unless otherwise noted, all cites to statutes and rules are to those in effect in 2001—during the relevant time periods in issue in this case.

³ Petitioner's exhibit lists contains a reference to Ex. 7 (the MRD decision), but notes that it was not available. The MRD decision was contained within the file's pleadings and the parties requested the ALJ to take official notice of it. The ALJ will attach a copy of the MRD decision to this decision as a convenience to the parties.

2. Vista billed Hartford Insurance Company (Carrier) \$6,836.81 for the services provided to Claimant on August 16, 2001.
3. Carrier paid Vista \$1,548.00 for the services.
4. Vista sought additional reimbursement and submitted to the Commission a request for medical dispute resolution.
5. On April 7, 2003, MRD issued its Findings and Decision ordering no additional reimbursement by Carrier.
6. Vista requested a hearing and the Commission issued a timely notice of hearing and referred the cases to the State Office of Administrative Hearings for assignment of an Administrative Law Judge.
7. The parties received adequate notice of not less than 10 days of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
8. On August 9, 2007, SOAH Administrative Law Judge Suzanne Formby Marshall held a contested case hearing concerning the four referenced dockets at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. Vista appeared through its attorney, Christina Hernandez. Carrier appeared at the hearing through its attorney, James Loughlin. The record closed the same day.
9. Vista did not present any evidence of the services provided to Claimant on August 16, 2001, the procedures that were performed on that date, the amounts billed for those procedures, or evidence relating to why the requested reimbursement was fair and reasonable.

V. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation Commission (Commission)(now the Division of Workers' Compensation of the Texas Department of Insurance) has jurisdiction over this matter pursuant to the Texas Workers' Compensation Act. TEX. LAB. CODE ANN. § 413.031.
2. The State Office of Administrative Hearings has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(d) and TEX. GOV'T CODE ANN. ch. 2003.
3. Vista's request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.

4. Adequate and timely notice of the hearing was provided according to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
5. Vista had the burden of proving by a preponderance of the evidence that it was entitled to additional reimbursement. 28 TEX. ADMIN. CODE (TAC) § 148.21(h).
6. Based on the above Findings of Fact and Conclusions of Law, Vista failed to show by a preponderance of the evidence that it is entitled to additional reimbursement for the services in issue in this proceeding.

ORDER

Vista Healthcare, Inc. has not shown itself entitled to relief from the orders of the Medical Review Division of the Texas Workers' Compensation Commission in this case. **IT IS, THEREFORE, ORDERED** that Hartford Insurance Company is not required to provide any additional reimbursement to Vista for the services in this case.

SIGNED August 28, 2007.

**SUZANNE FORMBY MARSHALL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**