

SOAH DOCKET NO. 454-08-3004.M4  
DWC MR NO. M4-06-6341-01

	§	BEFORE THE STATE OFFICE
PETITIONER	§	
	§	
V.	§	OF
	§	
TEXAS MUTUAL INSURANCE	§	
COMPANY,	§	
RESPONDENT	§	ADMINISTRATIVE HEARINGS

**DECISION AND ORDER**

Vicente Juan, M.D. (Provider) requested a hearing to contest a medical fee dispute resolution order issued by the Texas Department of Insurance, Division of Workers' Compensation (Division) regarding medical services provided to (Claimant). In its order, the Division upheld the decision by Texas Mutual Insurance Company (Carrier) to deny reimbursement for a surgery performed by Provider on Claimant. At the hearing, Provider appeared telephonically and Carrier appeared in-person, through its attorney. No other parties appeared or participated in the hearing. After reviewing the evidence presented, the Administrative Law Judge (ALJ) finds that Provider failed to timely submit his claim and supporting documentation. Therefore, Carrier is not required to reimburse for the requested amount.

Although the ALJ recognizes the potential inequity to Provider, the ALJ is constrained to follow the statutory timelines for submission of medical billing and supported documentation. In particular, TEX. LABOR CODE § 408.027 requires a Provider to submit its claim for payment no later than 95 days after the services are rendered. If the Carrier asks for additional documentation—as it did in this case—then Provider has 15 days from receipt of Carrier's request to provide such documentation. It is undisputed that Provider did not submit the requested operative report (which also was required under the Commission's rules for a bill to be considered "complete") within the 15-day period prescribed by law.

Further, TEX. LABOR CODE § 408.027 provides that the failure to comply with the claim timeline will result in forfeiture of the Provider's right to reimbursement of that claim. Thus, by failing to comply with the timelines contained in TEX. LABOR CODE § 408.027, Provider lost his entitlement to reimbursement of his claim for payment and, therefore, cannot prevail on his claim in this case. In support of this decision, the ALJ makes the following findings of fact and conclusions of law.

### I. FINDINGS OF FACT

1. (Claimant) suffered an injury compensable under workers' compensation insurance.
2. On the date of injury, Texas Mutual Insurance Company (Carrier) was the workers' compensation insurance carrier for Claimant's employer.
3. On or about December 10, 2005, (Provider) performed surgery on Claimant as treatment for her compensable injury.
4. On February 15, 2006, Provider submitted a bill to Carrier for \$8,212.00 for the surgery performed in December 2005. This was approximately 67 days after the services were rendered by Provider.
5. Provider's initial bill to Carrier did not include the operative report from the surgery.
6. On March 8, 2006, Carrier submitted a request for additional documentation to Provider. Specifically, Carrier asked for a copy of the operative report from the surgery on Claimant.
7. On April 14, 2006, Provider resubmitted his bill for the surgery performed on Claimant, and included a copy of the operative report that had been requested by Carrier on March 8, 2006. This was approximately 125 days after the services were rendered by Provider and 37 days after Carrier had requested additional documentation to process Provider's bill.
8. Carrier denied reimbursement to Provider on the basis that the billing and supporting documentation were untimely.
9. When Carrier denied reimbursement for the services, Provider requested medical fee dispute resolution through the Texas Department of Insurance, Division of Workers' Compensation (Division).

10. On April 17, 2008, the Division issued its findings and decision, holding that Carrier was not obligated to reimburse Provider for the disputed services.
11. On May 1, 2008, Provider requested a hearing by the State Office of Administrative Hearings (SOAH) to appeal the Division's order.
12. On May 27, 2008, the Division sent a notice of the SOAH hearing in this matter to all parties.
13. All 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.
14. On September 29, 2008, SOAH Administrative Law Judge Craig R. Bennett held a contested case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. Provider appeared at the hearing via telephone and Carrier appeared in-person, through its attorney. No other parties appeared or participated in the hearing.

## II. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order. TEX. LAB. CODE ANN. §§ 402.073(b), 413.031, 413.0311, and 413.055; and TEX. GOV'T. CODE ANN. ch. 2003.
2. Notice of the hearing was proper and timely. TEX. GOV'T. CODE ANN. §§ 2001.051-.052.
3. Provider had the burden of proving by the preponderance of the evidence that it was entitled to payment of the disputed fees. 1 TEX. ADMIN. CODE § 155.41(b); 28 TEX. ADMIN. CODE § 148.14(a).
4. Provider was required to submit its claim for payment no later than 95 days after the services were rendered. TEX. LABOR CODE § 408.027(a).
5. For the disputed services rendered by Provider in this case, a complete bill by Provider was required to include the operative report. 28 TEX. ADMIN. CODE § 133.1(a)(3)(ii).
6. If the Carrier asks for additional documentation after receiving an initial claim for payment, then Provider has 15 days from receipt of Carrier's request to provide such documentation. TEX. LABOR CODE § 408.027(b).

7. If a Provider fails to comply with the claim filing timeline, the Provider forfeits the right to reimbursement of that claim. TEX. LABOR CODE § 408.027.
8. Based on the above Findings of Fact, Provider failed to comply with the claim filing deadlines contained in TEX. LABOR CODE § 408.027 and, therefore, Provider has forfeited the right to reimbursement for the services in dispute.

**ORDER**

**THEREFORE, IT IS ORDERED THAT** the Carrier is not required to provide any reimbursement to Provider for the disputed services at issue in this case.

**SIGNED October 1, 2008.**



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**CRAIG R. BENNETT**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**