

**SOAH DOCKET NO. 454-10-4471.M5
MDR NO. M5-08-0105-01**

RICHARDSON REGIONAL MEDICAL CENTER,	§	BEFORE THE STATE OFFICE
Petitioner	§	
V.	§	OF
	§	
EMPLOYERS MUTUAL CASUALTY CO.,	§	ADMINISTRATIVE HEARINGS
Respondent	§	

DECISION AND ORDER

Richardson Regional Medical Center (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). The order denies Provider's request for reimbursement. The Administrative Law Judge concludes that Provider did not introduce sufficient evidence to show a fair and reasonable fee, and thus its request for reimbursement should be denied.

I. NOTICE AND HEARING

There were no contested issues regarding notice of the hearing. Therefore, those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

On April 8, 2004, Provider filed a request for medical fee dispute resolution with the Texas Department of Insurance, Division of Workers' Compensation (Division). On April 30, 2010, the Division issued its Medical Fee Dispute Resolution Findings and Decision. By letter dated May 27, 2010, Provider requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the Division's determination. A hearing convened before ALJ Rebecca S. Smith on July 7, 2010, at SOAH's facilities in Austin, Texas. Provider was represented by Shelli Morrison. Carrier was represented by Steven M. Tipton. The record closed that same day.

II. DISCUSSION

A. Background

On [redacted], Provider admitted [redacted], who had been receiving outpatient treatment, for inpatient psychiatric treatment because of his acute agitation, worsening depression, and homicidal ideation. [redacted] remained in treatment until he was discharged on August 12, 2003. Based on the emergency nature of the situation, Provider did not obtain pre-authorization. Carrier denied the claim based on the lack of pre-authorization.

The Independent Review Organization (IRO) determined that an emergency existed and that pre-authorization was not required. The Division reviewed the IRO and agreed that an emergency existed, and thus that the Carrier's reason for denial was not supported. Nevertheless, the Division determined that Provider was not entitled to reimbursement because it did not establish a fair and reasonable rate. Provider requested a hearing.

At the hearing, the Carrier did not challenge the conclusion that the emergency justified admission without preauthorization. Instead, Carrier took the position that Provider did not produce sufficient documentation to establish a fair and reasonable rate. For its part, Provider argued that a fair and reasonable rate should be determined under the Division's current fee guidelines.

B. Applicable Law

The Division's fee guidelines in place at the time of admission did not cover psychiatric inpatient admissions and instead required reimbursement at a fair and reasonable rate.¹ The current hospital inpatient fee guidelines apply to medical services provided in an inpatient acute care hospital

¹ 28 TEX. ADMIN. CODE § 134.401(a)(2) (eff. Aug. 1, 1997, 22 Tex. Reg. 6264) (since repealed) ("Psychiatric and/or rehabilitative inpatient admissions are not covered by this guideline and shall be reimbursed at a fair and reasonable

with an admission date on or after March 1, 2008.² For admissions before that date, the law and rules in effect for the dates of service apply.³

The rules that were in effect at the relevant time required a provider to present documentation to establish a fair and reasonable rate.⁴ Specifically, the requestor must provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.”

Provider submitted charges of \$4,347.40, which the Carrier rejected. At the hearing, Provider did not argue that it should be paid the full \$4,347.40. Instead, Provider argued that it should be paid under the current fee guideline. In any event, Provider contends, a fair and reasonable amount is not zero.

The evidence Provider introduced at hearing consisted of the Medical Fee Dispute Resolution Findings and Decision, hearing request, correspondence with the Division, and a stack of medical records. Provider did not present any expert testimony, or other testimony, about fees. Additionally, although the medical records show that Provider provided services to .., they do not supply a basis for determining what a fair and reasonable rate for those services should be. Provider’s argument that a fair and reasonable rate should not be zero is appealing, but because the Provider had the burden of proof in this matter⁵ and failed to present any evidence (and because the fee guidelines that became effective well after services were rendered do not apply), the ALJ can see no alternative but to deny the Provider’s request for reimbursement.

rate until the issuance of a fee guideline on these specific types of admissions.”).

² 28 TEX. ADMIN. CODE § 134.404(a)(1).

³ 28 TEX. ADMIN. CODE § 134.404(a)(2).

⁴ 28 TEX. ADMIN. CODE § 133.307(g)(3)(D), eff. Jan. 22, 2002, 26 Tex. Reg. 10934, amended to be eff. Jan. 1, 2003, 27 Tex. Reg. 12282.

⁵ 28 TEX. ADMIN. CODE § 148.14(a).

III. FINDINGS OF FACT

1. Claimant, an injured worker, suffered a compensable injury on
2. Richardson Regional Medical Center (Provider) rendered inpatient psychiatric treatment from . Provider is seeking reimbursement of \$4,347.40 for these dates of service.
3. Provider submitted a claim for payment to Employers Mutual Casualty Company (Carrier).
4. Carrier denied the claim because Provider had not obtained preauthorization.
5. On April 8, 2004, Provider filed a request for medical fee dispute resolution with the Texas Department of Insurance, Division of Workers' Compensation (Division).
6. On April 30, 2010, the Division issued its Medical Fee Dispute Resolution Findings and Decision.
7. Provider's attorney did not receive the Medical Fee Dispute Resolution Findings and Decision until May 11, 2010.
8. By letter dated May 27, 2010, Provider requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the Division's determination. The Division received the hearing request on May 28, 2010.
9. Notice of the hearing was sent to the parties on June 2, 2010. The notice informed the parties of the date, time, and location of the hearing, the matters to be considered, the legal authority under which the hearing would be held, and the statutory provisions applicable to the matters to be considered.
10. A hearing convened before ALJ Rebecca S. Smith on July 7, 2010, at SOAH's facilities in Austin, Texas. Provider was represented by Shelli Morrison. Carrier was represented by Steven M. Tipton. The record closed the same day.
11. Provider failed to establish a fair and reasonable rate for the health care services it provided on .

IV. CONCLUSIONS OF LAW

1. 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 and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
3. Provider had the burden of proof in this proceeding. 148 TEX. ADMIN. CODE § 148.14(a).
4. Psychiatric inpatient admissions that occurred before the issuance of a fee guideline covering those admissions are reimbursed at a fair and reasonable rate. 28 TEX. ADMIN. CODE § 133.307(g)(3)(D), eff. Jan. 22, 2002, 26 Tex. Reg. 10934, amended to be eff. Jan. 1, 2003, 27 Tex. Reg. 12282.
5. Fee guidelines covering psychiatric inpatient admissions were not issued until after the dates of service.
6. Provider is not entitled to payment from Carrier for the dates of service.

ORDER

IT IS ORDERED that the reimbursement request of Richardson Regional Medical Center for the dates of service is **DENIED**.

SIGNED August 12, 2010.


REBECCA S. SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS