

SOAH DOCKET NO. 454-15-5218.M4-NP

DWC NO. _____

AFFORDABLE HEARING CARE,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	OF
	§	
PETROLEUM CASUALTY COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Affordable Hearing Care (AHC) seeks reimbursement of \$12,533.60 from Petroleum Casualty Company (Petroleum) for services associated with dispensing hearing aids to a patient. Because AHC failed to timely submit its claim for payment to Petroleum in accordance with the Texas Labor Code and the rules of the Texas Department of Insurance, Division of Workers' Compensation (Division), its request for reimbursement is denied.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law without further discussion.

AHC filed a request for medical fee dispute resolution with the Division in March 2015. On May 14, 2015, the Division issued a Medical Fee Dispute Resolution Findings and Decision (MFDR Decision) on AHC's claim. The MFDR Decision found that AHC was not entitled to reimbursement. Based on the decision, AHC requested a hearing before the State Office of Administrative Hearings (SOAH). On August 7, 2015, the Division referred the dispute to SOAH for hearing. A hearing convened and closed before Administrative Law Judge (ALJ) Gary Elkins on October 26, 2015, at SOAH's facilities in Austin, Texas. Peggy Hemmenway, Michael LeCompte, and Katherine Longworth appeared on behalf of AHC. Petroleum appeared and was represented by attorney David Swanson.

II. DECISION

As set out in detail in the Findings of Fact and Conclusions of Law, AHC failed to timely submit a medical bill to Petroleum in accordance with Texas Labor Code (Labor Code) § 408.027 and 28 Texas Administrative Code § 133.10.

Even though Labor Code § 408.027 requires providers to submit claims for payment within 95 days, it provides no specifics on what is considered to be an effective claim submission for the purpose of meeting the 95-day deadline and avoiding forfeiture of the right to reimbursement. The Division's rules at 28 Texas Administrative Code Chapter 133 provide those specifics, establishing forms to be used in submitting claims, detailing information to be included in claims, and addressing actions carriers may take upon receipt of incomplete bills. The rules, however, do not address the consequences of a provider's failure to use the required forms when submitting a bill, and they do not speak to a provider's failure to submit all requested information. Consequently, the ALJ deemed it necessary to determine whether AHC's approach to submitting its claim met the spirit of the claim submission requirements, if not the letter.

A thorough review of the bill submitted by AHC in July 2014 reflects that it met neither the express billing requirements nor the spirit of those requirements. Fundamental to this conclusion was the nature of the information required by Form 1500 but not included on the bill, including the following:

- the insured's (patient's) ID number (social security number);
- the Insured's Group Policy Number;
- the date of illness;
- and identification numbers of the rendering and billing providers.

The bill also failed to contain other information required by the Division's rules at 28 Texas Administrative Code § 133.10. Although AHC ultimately submitted its bill on a Form 1500, the evidence indicates it was filed no earlier than October 27, 2014. That date was 175 days after May 5, 2014, the apparent date of service.

Because AHC fell short of meeting the applicable billing requirements, it forfeited its right to the \$12,533.60 it seeks in reimbursement from Petroleum.

III. FINDINGS OF FACT

1. Affordable Hearing Care (AHC) seeks reimbursement of \$12,533 from Petroleum Casualty Company (Petroleum) for services associated with dispensing hearing aids to a patient.
2. On May 14, 2015, the Division's Medical Review Division issued its Medical Fee Dispute Resolution Findings and Decision (MFDR Decision), which found that AHC was not entitled to reimbursement.
3. AHC timely requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the MFDR Decision.
4. A Notice of Hearing 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.
5. A hearing convened before Administrative Law Judge Gary Elkins on October 26, 2015, at SOAH's facilities in Austin, Texas. Peggy Hemmenway, Michael LeCompte, and Katherine Longworth appeared on behalf of AHC. Petroleum appeared and was represented by attorney David Swanson. The hearing closed the same day at the conclusion of the hearing.
6. On May 5, 2014, AHC provided the services for which it seeks reimbursement.
7. On July 8, 2014, AHC submitted a claim for payment to Petroleum on a form titled "Superbill," for the hearing aid services.
8. The Superbill AHC submitted to Petroleum differed substantially from a Form 1500. It did not contain the information required on a Form 1500, including the insured's (patient's) ID number (social security number), the Insured's Group Policy Number, the date of illness, identification numbers of the rendering and billing providers, and other information.
9. AHC first filed a Form 1500 on October 27, 2014, 175 days after May 5, 2014.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to Texas Labor Code § 413.031 and Texas Government Code ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052.
3. AHC's July 8, 2014 billing fell far short of meeting the billing requirements of Texas Labor Code § 408.027 and 28 Texas Administrative Code ch. 133.

4. AHC failed to submit a claim for payment within 95 days of the date of service, as required by Texas Labor Code § 408.027.
5. AHC failed to comply with the billing requirements contained in 28 Texas Administrative Code ch. 133.
6. AHC is not entitled to reimbursement from Petroleum for the \$12,533 in hearing aid services rendered to the patient in March and May 2014.

ORDER

IT IS ORDERED that AHC is not entitled to any reimbursement.

NONPREVAILING PARTY DETERMINATION

Texas Labor Code § 413.0312(g) and 28 Texas Administrative Code § 133.307(h) require the nonprevailing party to reimburse DWC for the cost of services provided by SOAH. Texas Labor Code § 413.0312(i) requires that SOAH identify the nonprevailing party and any costs for services provided by SOAH in its final decision. For purposes of Texas Labor Code § 413.0312, Affordable Hearing Care is the nonprevailing party. The costs associated with this decision are set forth in Attachment A to this Decision and Order and are incorporated herein for all purposes.

SIGNED December 17, 2015.



GARY W. BLKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS