

SOAH DOCKET NO. 454-16-3686.M4-NP
TDI-DWC FILE NO. ____

HANGER PROSTHETICS AND	§	BEFORE THE STATE OFFICE
ORTHOTICS,	§	
Petitioner	§	
v.	§	OF
OLD REPUBLIC INSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS
	§	

DECISION AND ORDER

Hanger Prosthetics and Orthotics (Hanger) challenges a decision of the Texas Department of Insurance, Division of Worker’s Compensation (Division) that denied Hanger’s claim for reimbursement for prostheses and prosthetic services. Old Republic Insurance Company (Old Republic) argues that Hanger failed to timely file its request for Medical Fee Dispute Resolution and failed to timely appeal the Division’s Decision and Order by requesting a Benefit Review Conference. The Administrative Law Judge (ALJ) concludes that Hanger failed to meet the required deadlines and is precluded from receiving reimbursement.

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. The hearing convened on July 11, 2016, in Austin, Texas before ALJ John H. Beeler of the State Office of Administrative Hearings. Representative Lana Perryman appeared for Hanger and attorney Timothy White appeared for Old Republic.

I. DECISION

Pursuant to 28 Texas Administrative Code § 133.307(c)(1), a request for Medical Fee Dispute Resolution (MFDR) must be filed within one year of the date of the service in dispute, and failure to comply constitutes a waiver of MFDR. Also, pursuant to 28 Texas Administrative Code § 133.307(g)(1), an appeal of a Decision and Order of the Division must be filed within 20 days of the issuance of the Decision and Order.

The following timeline in this case is not in dispute:

- The date of services provided is March 20, 2014.
- Hanger filed its request for MFDR on December 7, 2015.
- The Division issued its Decision and Order on December 30, 2015.
- On February 18, 2016, Hanger appealed the Decision and Order by requesting a Benefit Review Conference.

Petitioner failed to comply with the deadlines set out above and, consequently, waived its claim for reimbursement. In support, the ALJ makes the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT

1. Hanger Prosthetics and Orthotics (Hanger) challenges a decision of the Texas Department of Insurance, Division of Worker's Compensation (Division) that denied Hanger's claim for reimbursement for prostheses and prosthetic services.
2. The services were provided on March 20, 2014.
3. Hanger filed its request for Medical Fee Dispute Resolution (MFDR) on December 7, 2015. The Division issued its Decision and Order denying reimbursement on December 30, 2015.
4. On February 18, 2016, Hanger appealed the Decision and Order by requesting a Benefit Review Conference.
5. In response to the Division's Decision and Order, Hanger requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the decision.
6. On April 15, 2016, the Division issued a Notice of Hearing to the parties. 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.
7. A hearing convened and closed before SOAH Administrative Law Judge John H. Beeler on July 11, 2016, Austin, Texas. Representative Lana Perryman appeared for Hanger and attorney Timothy White appeared for Old Republic Insurance Company. The hearing concluded and the record closed that same day.

III. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to Texas Labor Code § 413.0312 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. Hanger failed to request for MFDR within one year of the date of the services in dispute in violation of 28 Texas Administrative Code § 133.307(c)(1), and therefore waived its right to MFDR.
4. Hanger failed to appeal the Decision and Order of the Division within 20 days of the issuance of the Decision and Order in violation of 28 Texas Administrative Code § 133.307(g)(1).
5. Hanger is not entitled to reimbursement for prostheses and prosthetic services provided on March 20, 2014.

ORDER

IT IS ORDERED that Hanger Prosthetics and Orthotics is not entitled to reimbursement for prostheses and prosthetic services provided on March 20, 2014.

NONPREVAILING PARTY DETERMINATION

Texas Labor Code § 413.0312(g) and 28 Texas Administrative Code § 133.307(h) require the non-prevailing party to reimburse the Division for the cost of services provided by SOAH. Texas Labor Code § 413.0312(i) requires SOAH to identify the non-prevailing party and any costs for services provided by SOAH in its final decision. For purposes of Texas Labor Code § 413.0312, Hanger Prosthetics and Orthotics is the non-prevailing 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 August 19, 2016.



JOHN H. BEELER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS