

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

ISSUE

A contested case hearing was held on March 18, 2009, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that Dr. L WB, M.D., Petitioner, is not entitled to reimbursement of a total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____?

PARTIES PRESENT

Claimant did not appear and his appearance was waived by the parties. Petitioner appeared and was represented by NSM, attorney. Respondent/Carrier appeared and was represented by BWJ, attorney.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. Dr. L, Claimant's treating doctor, referred Claimant to Dr. LWB, Petitioner. According to the medical records, Dr. LWB examined Claimant on April 16, 2008, May 20, 2008, June 17, 2008, July 22, 2008, and August 26, 2008. The payment for the office visit on July 22, 2008, is not in dispute. During the four visits for which there is a dispute, Dr. LWB reported that Claimant was in pain, requested a refill of medications, or that he was awaiting on test results. Dr. LWB billed Carrier on June 28, 2008, for the office visits of April 16, 2008, May 20, 2008, and June 17, 2008, and billed Carrier on September 14, 2008, for the office visit of August 26, 2008. Dr. LWB billed Carrier for \$600.00 at the rate of \$150.00 for each of the four office visits, listed the American Medical Association (AMA) Physician's Current Procedural Terminology (CPT) code as 99214, and submitted documentation for payment. In accordance with the Division's 1996 Medical Fee Guideline, Division Rule 134.201, Dr. LWB would be entitled to a reimbursement for the four office visits in the sum of \$471.00 based on the maximum allowable reimbursements (MARs) under Division Rule 134.202(c), and subject to Dr. LWB submitting the supporting documentation to Carrier for payment.

After conducting audits on August 8, 2008, and on September 29, 2008, Carrier denied Dr. LWB's bills due to the level of services exceeding the treatment guidelines that require health care providers to provide treatment in accordance with the current edition of the Official Disability Guidelines (ODG) under Division Rule 137.100, and the lack of information and documentation to support the level of service being billed in accordance with the CPT code

99214 with a diagnosis code of 722.10 for displacement of lumbar intervertebral disc without myelopathy, and 338.21 for chronic pain due to trauma.

Carrier specifically noted in its denial of payment that Dr. LWB had submitted documentation for each level of service that indicated that the nature of Claimant's presenting problems were moderate to high severity in accordance with the CPT code 99214, but that the documentation as submitted by Dr. LWB did not support the level of services. As part of its denial, Carrier contended that Claimant had nine office visits with Dr. LWB prior to the four office visits in dispute, that the additional office visits exceeded the six office visits as recommended under the ODG, and that Dr. LWB failed to obtain preauthorization for the additional four office visits in accordance with Division Rule 134.600(p)(12). The Division Rule 134.600(p)(12) requires preauthorization for non-emergency health care for treatments and services that exceed or not addressed by the Commissioner's adopted treatment guidelines or protocols, and are not contained in a treatment plan preauthorized by the Carrier. On October 18, 2008, Dr. LWB requested reconsideration which Carrier denied on November 21, 2008. Dr. LWB timely requested Medical Dispute Resolution (MDR) in accordance with Division Rule 133.307(c).

On December 17, 2008, a Medical Fee Dispute Resolution Findings and Decision (MFDRFD) was rendered by a MDR reviewer. The MFDRFD determined that based on the documentation submitted by the parties, and in accordance with Texas Labor Code §413.031, Dr. LWB was not entitled to a reimbursement total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.

Under CPT code 99214 with a diagnosis code of 722.10 for displacement of lumbar intervertebral disc without myelopathy, and 338.21 for chronic pain due to trauma, the ODG states as follows:

"Doctor's visit for the evaluation of an established patient for a detailed history, examination, and a medical decision of moderate complexity. Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: A detailed history; A detailed examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 25 minutes face-to-face with the patient and/or family."

According to the MFDRFD, the CPT code 99214 requires a detailed history, detailed examination, and medical decision making of moderate complexity, and the physician typically spending 25 minutes face-to-face with the patient and or family for each visit. The MDR reviewer correctly determined that the documentation submitted by Dr. LWB were templates for the April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, dates of service, and lacked the required information to bill for CPT code 99214. The MDR reviewer correctly determined that Dr. LWB failed to provide a detailed history as to why Claimant presented to the office, failed to complete an extended history of present illness, failed to provide problem pertinent review of systems that extended to included a review of a limited number of additional systems that were pertinent to Claimant's past family and/or social history. In addition, the MDR

reviewer correctly determined that Dr. LWB failed to conduct a detailed examination of Claimant that included an extended examination of the affected body area, and other symptomatic or related symptoms; and correctly determined that Dr. LWB failed to make a medical decision of moderate complexity that involved a number of diagnosis and/or management options, the amount and/or complexity of the data to be reviewed, and the risks of complication, morbidity, and or mortality.

Dr. LWB and Carrier offered into evidence copies of the *American Medical Association 2008 Current Procedural Terminology, Evaluation and Management Services Guide*, concerning CPT code 99214, and the three components of a doctor's visit for the evaluation of an established patient to include a detailed history, examination, and a medical decision of moderate complexity. Dr. LWB and Carrier also introduced into evidence copies of medical articles that further explained in more detail what is included in the component parts of a detailed history, examination, and a medical decision of moderate complexity. Dr. LWB testified that he would rely upon the documentary evidence and the argument of NSM, his attorney, in support of his position on the disputed issue. RB, a nurse with Carrier, testified that the MFDRFD was consistent with the Carrier's decision to deny payment to Dr. LWB.

The preponderance of the evidence is not contrary to the decision of MFDRFD that Dr. LWB is not entitled to reimbursement of a total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

FINDINGS OF FACT

1. The parties stipulated to the following facts:
 - A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 - B. On _____, Claimant was the employee of (Employer), and sustained a compensable injury.
2. Carrier delivered to Petitioner a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. On December 17, 2008, the Medical Fee Dispute Resolution Findings and Decision determined that Dr. LWB, M.D., is not entitled to reimbursement of a total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.
4. Dr. LWB, M.D., Petitioner, did not provide a detailed history, detailed examination, and medical decision making of moderate complexity as required under CPT code 99214 when he submitted the documentation for reimbursement of a total of \$471.00 under CPT

code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue is proper in the (City) Field Office.
3. The preponderance of the evidence is not contrary to the decision of Medical Fee Dispute Resolution Findings and Decision that Dr. LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.

DECISION

Dr. LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$471.00 under CPT code 99214 for dates of service of April 16, 2008, May 20, 2008, June 17, 2008, and August 26, 2008, at \$117.75 for each visit for the compensable injury of _____.

ORDER

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the _____, compensable injury, in accordance with Texas Labor Code Ann. §408.021.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY**, and the name and address of its registered agent for service of process is

**RUSSELL RAY OLIVER, PRESIDENT
TEXAS MUTUAL INSURANCE COMPANY
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723**

Signed this 14th day of April, 2009.

Wes Peyton
Hearing Officer