

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 April 15, 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 LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, for the compensable injury of _____?

PARTIES PRESENT

Claimant did not appear and his appearance was waived by the parties. Petitioner appeared pro se. Respondent/Carrier appeared and was represented by GP, adjuster.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. The medical records indicated that Claimant sustained a hernia injury on _____, and underwent surgery to repair the hernia. CB, D.C., Claimant's treating doctor, referred Claimant to Dr. LWB, Petitioner. According to the medical records, Dr. LWB initially examined Claimant on January 8, 2008, with follow-up office visits on February 5, 2008, March 5, 2008, March 26, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at the rate of \$150.00 for each visit for the compensable injury of _____. Reimbursement for Claimant's March 26, 2008, office visit with Dr. LWB was not in dispute.

For each visit in which reimbursement was sought, Dr. LWB reported that Claimant was in pain and requested a refill of medications. Dr. LWB billed Carrier initially on March 27, 2008, for the office visits of January 8, 2008, February 5, 2008, and March 5, 2008, at the rate of \$150.00 for each visit, and subsequently billed Carrier on July 13, 2008, for the office visits of May 7, 2008, June 3, 2008, and July 9, 2008, at the rate of \$150.00 for each visit. Dr. LWB listed the American Medical Association (AMA) Physician's Current Procedural Terminology (CPT) code as 99214 for each bill submitted to Carrier, and attached documentation for payment.

In accordance with the Division's 1996 Medical Fee Guideline, Division Rule 134.201, and based on the maximum allowable reimbursements (MARs) under Division Rule 134.202(c), Dr. LWB would be entitled to a reimbursement at the rate of \$106.11 for each visit of January 8, 2008, and February 5, 2008, and at the rate of \$117.75 for each visit of March 5, 2008, May 7,

2008, June 3, 2008, and July 9, 2008. In addition, Dr. LWB's entitlement to reimbursement from Carrier was subject to Dr. LWB submitting supporting documentation to Carrier.

After conducting audits on April 3, 2008, and August 8, 2008, Carrier denied Dr. LWB's bills. Carrier denied Dr. LWB's bills due to the level of service 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 diagnoses codes 550.90 for a right inguinal hernia without obstruction or gangrene, 848.8 for right inguinal sprain/strain, and 293.84 for organic anxiety disorder. In its denial, Carrier specifically noted that Dr. LWB had submitted documentation for a level of service that indicated that the nature of Claimant's presenting problems were moderate in accordance with the CPT code 99214, but that the documentation as submitted by Dr. LWB did not support that level of service. On October 12, 2008, Dr. LWB requested reconsideration which Carrier denied on November 18, 2008. Dr. LWB timely requested Medical Dispute Resolution (MDR) in accordance with Division Rule 133.307(c).

On January 15, 2009, 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 \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, for the compensable injury of _____.

Under the CPT code 99214 with diagnoses codes of 550.90 for a right inguinal hernia without obstruction or gangrene, 848.8 for right inguinal sprain/strain, and 293.84 for organic anxiety disorder, 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. The MDR reviewer correctly determined that the documentation submitted by Dr. LWB were templates for CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, for the compensable injury of _____, 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 include 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 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 also introduced into evidence the Guides to the Evaluation of Permanent Impairment, Fourth Edition, published by the American Medical Association, Section 10, Page 242, Table 7, Classes of Hernia-related Impairment, and two pharmacology articles concerning the drug acetaminophen or hydrocodone. In addition, Dr. LWB introduced the Report of Medical Evaluation (DWC-69) dated October 30, 2007, from RH, M.D., the designated doctor, wherein Dr. RH determined that Claimant reached maximum medical improvement on October 30, 2007, with a 10% impairment rating for the compensable injury of _____. Dr. LWB testified that he would rely upon the documentary evidence, and his testimony in support of his position on the disputed issue.

Carrier offered into evidence the peer review report dated June 4, 2008, from KDE, M.D., and the peer review report dated November 7, 2007, from GDM, D.C.

The preponderance of the evidence is not contrary to the decision of MFDRFD that LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, 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 January 15, 2009, the Medical Fee Dispute Resolution Findings and Decision determined that LWB, M.D., was not entitled to a reimbursement total of \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, for the compensable injury of _____.
4. 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 \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, 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 LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, for the compensable injury of _____.

DECISION

LWB, M.D., Petitioner, is not entitled to reimbursement of a total of \$683.22 under CPT code 99214 for dates of service of January 8, 2008, February 5, 2008, March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, at \$106.11 for each visit on January 8, 2008, and February 5, 2008, and \$117.75 for each visit on March 5, 2008, May 7, 2008, June 3, 2008, and July 9, 2008, 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 **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA**, and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701**

Signed this 6th day of May, 2009.

Wes Peyton
Hearing Officer