

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 August 6, 2009 with Judy L. Ney as the presiding hearing officer. The following disputed issue was decided:

Is the preponderance of the evidence contrary to the decision of the Medical Fee Dispute Resolution that Claimant is not entitled to receive \$760.29 as reimbursement for health care services rendered from January 3, 2009 through March 10, 2009?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by DV, ombudsman. Respondent appeared and was represented by WS, attorney.

BACKGROUND INFORMATION

Claimant testified that from January 3, 2009 to March 10, 2009 he was unable to find a workers' compensation doctor, locally, who would treat him. He stated that due to his constant back pain and trouble sleeping he had no choice but to go to private doctors to get medicine for his injury. In a decision dated June 2, 2009 a Medical Fee Dispute Resolution (MFDR) reviewer found in favor of Carrier. Claimant appealed the decision, requesting a Contested Case Hearing.

During this period the treating doctor of record is Dr. B. Claimant testified that he could not find a doctor to take his case because it was so old and because it was workers' compensation. However there is no evidence as to why Claimant did not continue to treat with Dr. B or in the alternative why Dr. B stopped treatment. Claimant has not requested to change treating doctors during or after the period in question. Even though Claimant's testimony concerning his frequent visits to the emergency room and local doctors to obtain pain medication is credible, no medical evidence has been presented to explain a medical emergency from January 3, 2009 to March 10, 2009 or to warrant the numerous different doctor visits and prescriptions. The preponderance of the evidence is not contrary to the findings of MFDR review and the carrier is not liable to the Claimant for \$760.29 as reimbursement for health care services rendered from January 3, 2009 through March 10, 2009.

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 fact:

- A. On _____, Claimant was the employee of (Employer), when he sustained a compensable injury.
2. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 3. Carrier delivered to Claimant 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.
 4. The \$760.29 sought by Claimant as reimbursement for health care services rendered from January 3, 2009, through March 10, 2009, were for services which were neither rendered by a workers' compensation doctor, approved to treat Claimant, nor rendered for a medical emergency or emergencies.
 5. Dr. B is the treating doctor of record and no request to change doctors has been submitted.

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 the Medical Fee Dispute Resolution, rendered on June 2, 2009 that Claimant is not entitled to \$760.29 as reimbursement for health care services rendered from January 3, 2009 through March 10, 2009.

DECISION

Claimant is not entitled to \$760.29 as reimbursement for health care services rendered from January 3, 2009 through March 10, 2009.

ORDER

Carrier is not liable to the health care provider for reimbursement 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 **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST
SUITE 300
IRVING, TEXAS 75063**

Signed this 7th day of August, 2009.

Judy L. Ney
Hearing Officer