

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 opened on September 10, 2009, to decide the following disputed issue:

1. Is the preponderance of the evidence contrary to the decision of Medical Fee Dispute Resolution (MFDR) that Respondent/Subclaimant is entitled to \$165.16 plus applicable interest for health care services rendered by Respondent/Subclaimant on September 26 and 28, 2007?

The hearing was closed on September 29, 2009, upon receipt of Petitioner/Carrier's exhibits, Petitioner/Carrier's Closing Argument, and Respondent/Subclaimant's Closing Argument.

PARTIES PRESENT

Petitioner/Carrier appeared and was represented by RJ, attorney. Respondent/Subclaimant appeared and was represented by JP, lay representative.

BACKGROUND INFORMATION

Claimant sustained a compensable injury on _____. MFDR found Petitioner/Carrier liable for two sessions of physical therapy rendered on September 26 and 28, 2007. Claimant attended physical therapy sessions on August 28, 29, 30, and 31, 2007, which was within two weeks immediately following the date of injury and which sessions did not require preauthorization in accordance with Rule 134.600(p)(5)(C)(i). This subpart of the rules does not require preauthorization "for the first six visits of physical or occupational therapy following the evaluation when such treatment is rendered within the first two weeks immediately the date of injury." On August 31, 2007, Respondent/Subclaimant sought preauthorization for nine sessions of physical therapy at the rate of three per week for three weeks. The nine sessions of physical therapy were approved by Petitioner/Carrier for physical therapy beginning on September 4, 2007, for three weeks. Petitioner/Carrier's preauthorization stated:

Service Date (s): 09/04/2007 for 9 Days(s) or Visit(s) and 3 Week[sic], if applicable.

MFDR found that physical therapy sessions rendered on September 4 and 5, 2007, were within the first two weeks immediately following the date of injury which would complete a total of six sessions as provided in Rule 134.600(p)(5)(C)(i). MFDR found that the September 4 and 5, 2007 sessions did not require preauthorization. MFDR then found that the following nine sessions of physical therapy were as authorized by Petitioner/Carrier. However, MRDR

disregarded the fact that the sessions on September 26 and 28, 2009, were outside of the three week preauthorization which began on September 4, 2007. Since the physical therapy sessions on September 26 and 28, 2009, were outside the "3 Week" preauthorization period, Petitioner/Carrier is not liable for them.

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), when she sustained a compensable injury.
2. Petitioner/Carrier delivered to Claimant a single document stating the true corporate name of Petitioner/Carrier, and the name and street address of Petitioner/Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. Petitioner/Carrier did not preauthorize physical therapy service rendered by Respondent/Subclaimant on September 26 and 28, 2007, for which MFDR ordered payment of \$165.16 plus applicable interest and for which preauthorization by Petitioner/Carrier was required.

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 contrary to the decision of MFDR that Respondent/Subclaimant is entitled to \$165.16 plus applicable interest for health care services rendered by Respondent/Subclaimant on September 26 and 28, 2007.

DECISION

Respondent/Subclaimant is not entitled to \$165.16 plus applicable interest for health care services rendered by Respondent/Subclaimant on September 26 and 28, 2007.

ORDER

Petitioner/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 §408.021.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY**, 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 30th day of September, 2009.

Charles T. Cole
Hearing Officer