MEDICAL CONTESTED CASE HEARING NO 12095
M6-09-9333-02

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 scheduled for March 8, 2012 but the Carrier failed to appear. A 10 day letter was sent to the Carrier and the adjuster responded requesting that the hearing be rescheduled. The contested case hearing was held on March 29, 2012 to decide the following disputed issue:

> Whether the health care provider (Provider/Petitioner) is entitled to medical fee payment in the amount of $1,213.28 for services rendered to Claimant on October 9, 2008?

PARTIES PRESENT

Provider/Petitioner appeared and was represented by GM, lay representative.
Carrier/Respondent appeared and was represented by RL, attorney.
Claimant was not present and her attendance was excused.

BACKGROUND INFORMATION

Although properly notified, Carrier failed to appear for the contested case hearing scheduled for March 8, 2012 at 9:00 am. A letter advising that the hearing had convened and that the record would be held open for ten days to afford Carrier the opportunity to respond and request that the hearing be rescheduled to permit Carrier to present evidence on the disputed issue was mailed to the adjuster on March 8, 2012. The adjuster responded and requested that the hearing be rescheduled. The hearing was rescheduled to and held on March 29, 2012.

The health care provider rendered services to Claimant on October 9, 2008 in the form of a spinal stimulator implant. The Medical Fee Dispute Resolution (MFDR) officer determined that the dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307 and concluded that the requestor failed to support its position that additional reimbursement is due. The specific findings of the MFDR officer are contained in Carrier's Exhibit B.

Pursuant to Rule 133.307(2), the provider shall complete the required sections of the request in the form and manner prescribed by the Division. The provider shall file the request with the MDR Section by any mail service or personal delivery. The request shall include: (A) a copy of all medical bill(s), in a paper billing format using an appropriate DWC approved paper billing format, as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration in accordance with §133.250 of this chapter (relating to Reconsideration for Payment of Medical Bills); (B) a copy of each explanation of benefits (EOB), in a paper explanation of benefits format, relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB; (C) the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division; (D) when applicable, a copy of the final decision regarding compensability, extent of injury, liability and/or medical necessity for the health care related to the dispute; (E) a copy of all applicable medical records specific to the dates of service in dispute; (F) a position statement of the disputed issue(s) that shall include: (i) a description of the health care for which payment is in dispute, (ii) the requestor's reasoning for why the disputed fees should be paid or refunded, (iii) how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues, and (iv) how the submitted documentation supports the requestor position for each disputed fee issue; (G) documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable; and (H) if the requestor is a pharmacy processing agent, a signed and dated copy of an agreement between the processing agent and the pharmacy clearly demonstrating the dates of service covered by the contract and a clear assignment of the pharmacy's right to participate in the MDR process. The pharmacy processing agent may redact any proprietary information contained within the agreement.

In response to the MFDR findings, Provider presented evidence which included Claimant's complete medical records, a completed position statement for the health care description and stamped invoices authenticating the implant bills. Provider explained that they have the option of requesting 200% of the MAR for the surgery or 130% of the MAR for the surgery plus the cost of the implant plus 10%. Provider requested the 130% reimbursement. According to the methodology requested by the Provider, MAR value for the surgery is $22,069.23 x 130% = $28,689.99 + $18,500.00 (implant) + $1,850.00 (10%) for a total of $49,039.00. Carrier has paid $47,826.71 leaving a balance of $1,213.28. The MFDR officer reviewed the documentation submitted to medical fee dispute by the Provider and the Carrier. At that time, the Provider had not submitted the appropriate documentation for reimbursement of the spinal cord stimulator at the amount requested by the Provider pursuant to Rule 134.403(f)(1)(B), in addition to other deficiencies in the billing. Accordingly, payment was calculated by the MFDR officer pursuant to Rule 134.403(f)(1)(A). Although the Provider presented the appropriate documentation to substantiate the additional reimbursement for the services provided, which were admitted into

evidence at this hearing, the Provider failed to timely and properly submit a complete and correct medical bill to the Carrier pursuant to Rule 133.307(2) to justify the additional reimbursement. Therefore, Provider failed to present sufficient evidence that it is entitled to reimbursement in the amount of $1,213.28.

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 present stipulated to the following facts:

   A. Venue is proper in the San Antonio Field Office of the Texas Department of Insurance, Division of Workers' Compensation.

   B. On (Date of Injury), Claimant was the employee of (Employer), Employer, when she sustained a compensable injury.

   C. On September 30, 2011, MFDR determined that the requestor was entitled to $0.00 reimbursement for the disputed services.

2. The Carrier delivered to Provider 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. The health care provider failed to timely and properly submit a medical bill for the reimbursement of $1,213.28 in accordance to Rule 133.307.

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 San Antonio Field Office.

3. The health care provider is not entitled to reimbursement in the amount of $1,213.28 for services rendered to Claimant on October 9, 2008.

DECISION

The health care provider is not entitled to reimbursement in the amount of $1,213.28 for services rendered to Claimant on October 9, 2008.

ORDER

Carrier is not liable to pay Provider for additional reimbursement of $1,213.28 for services rendered to Claimant on October 9, 2008.

The true corporate name of the insurance carrier is **AMERICAN CAUSALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TX 75201

Signed this 29th day of March, 2012.

Carol Fougerat
Hearing Officer