

TEXAS MUTUAL INSURANCE	§	BEFORE THE STATE OFFICE
COMPANY,	§	
Petitioner	§	
	§	
V.	§	OF
	§	
WORK READY REHAB, L.T.D.	§	
Respondent	§	
	§	
	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Texas Mutual Insurance Company (Petitioner) requested a hearing to contest the Findings and Decision of the Texas Workers' Compensation Commission (Commission) acting through Envoy Medical Systems, LP, an Independent Review Organization (IRO), granting Work Ready Rehab L.T.D. (Respondent) reimbursement for the travel expenses of J.M. (Claimant). The Administrative Law Judge disagrees with the decision of the IRO and denies the \$4,760.00 reimbursement to Respondent for Claimant's travel expenses.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on April 14, 2005, before Administrative Law Judge (ALJ) Stephen J. Pacey, Timothy P. Riley represented Petitioner, and Pam Walker represented Respondent. There were no contested issues of notice or jurisdiction. The record closed the same day following adjournment of the hearing.

II. ANALYSIS

Neither Claimant's injury nor his treatments will be discussed because the only issue remaining is whether Respondent should be reimbursed for Claimant's travel expenses. It is undisputed that Claimant's injury was serious enough that he had to make arrangements for travel. Respondent inappropriately billed Claimant's travel under CPT Code 99082. This code is used only when the physician accompanies a patient being transported. If the physician does not accompany the patient, then CPT Code 99082 should not be used.

The ALJ holds as a matter of law that Respondent is not entitled to reimbursement for Claimant's travel expenses. Except for emergency transportation and transportation where the physician accompanies the patient, 28 TEX. ADMIN. CODE (TAC) §134.6 (Rule 134.6) dictates the procedure that

an injured employee must use to obtain travel expenses reimbursement from the carrier. Rule 134.6 states in pertinent part:

- (a) When it becomes reasonably necessary for an injured employee to travel in order to obtain reasonable and necessary medical care for the injured employee's compensable injury, the injured employee may request reimbursement from the insurance carrier by submitting a request to the carrier in the form, format, and manner required by the Commission.
- (b) An injured employee is entitled to reimbursement for travel expenses only if:
 - (1) medical treatment for the compensable injury is not reasonably available within 20 miles of the injured employee's residence;
 - (2) the distance traveled to secure medical treatment is greater than 20 miles, one-way; and
 - (3) the injured employee submits the request to the insurance carrier in the form and manner prescribed by the Commission within one year of the date the injured employee incurred the expenses.
- (c) The insurance carrier shall reimburse the injured employee based on the travel rate for state employees on the date travel occurred, using mileage for the shortest reasonable route.

Respondent is not the injured worker; therefore, Respondent is not, as a matter of law, entitled to reimbursement for Claimant's travel expenses. Rule 134.6 unequivocally says that the Claimant must file for travel expense reimbursement.

III. FINDINGS OF FACT

1. ____ (Claimant) sustained a work-related injury serious enough to require travel to and from Work Ready Rehab's treatment facility.
2. Claimant was treated at Respondent's facility from March 23, 2003, to December 8, 2003.
3. Respondent billed Texas Mutual Insurance Company (Petitioner) for the cost of treatment services (Disputed Services) and \$4,760.00 (70 units at \$68.00 per unit) for Claimant's travel expenses.
4. Respondent denied reimbursement for the Disputed Services as not medically necessary and denied Respondent's reimbursement for the travel expenses.
5. By letter dated June 16, 2004, Envoy Medical Systems, LP, an Independent Review Organization (IRO), concluded that the Disputed Services were not medically necessary for treatment of Claimant's condition, but that the travel expenses were necessary.
6. The IRO decision is deemed a Decision and Order of the Texas Workers' Compensation Commission (Commission).
7. The Commission issued a Decision on August 23, 2004.
8. Both parties timely requested a hearing to contest the Commission's decision.

9. The Commission issued a notice of hearing on October 12, 2004.
10. A hearing was convened by Administrative Law Judge Stephen J. Pacey on April 14, 2005, in the hearing rooms of the State Office of Administrative Hearings. The hearing adjourned and the record closed that same day.
11. Respondent, both orally and in writing, withdrew its challenge to the IRO decision.
12. Because Respondent withdrew its challenge, the hearing on the merits only addressed the question of whether Respondent should be reimbursed for Claimant's travel expenses.
13. Respondent was not the injured worker (Claimant).
14. None of the treatment services were medically necessary.
15. Except for emergency transportation and transportation where the physician accompanies the patient, only the injured worker can recover travel expenses.
16. The travel was not due to an emergency, and there was no need for the physician to accompany the travel.

IV. CONCLUSIONS OF LAW

1. The Texas Workers' Compensation Commission has jurisdiction to decide the issue presented pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 413.031.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(k) and TEX. GOV'T. CODE ANN. ch. 2003.
3. Petitioner timely requested a hearing in this matter pursuant to 28 TEX. ADMIN. CODE (TAC) § 102.7 and 148.3.
4. Notice of the hearing was proper and complied with the requirements of TEX. GOV'T. CODE ANN. ch. 2001.
6. Petitioner had the burden of proof in this matter, which was the preponderance of evidence standard. 28 TAC § 148.21(h) and (i); 1 TAC § 155.41(b).
7. Respondent is not entitled to reimbursement for Claimant's travel expenses on the basis of 28 TAC § 134.6.
8. Based upon the Findings of Fact and Conclusions of Law, Petitioner proved by a preponderance of the evidence that the travel expenses should not be reimbursed to Respondent.

ORDER

THEREFORE IT IS ORDERED that Petitioner Texas Mutual Insurance Company does not have to pay Respondent Work Ready Rehab \$4,760.00, for the Claimant's travel expenses.

SIGNED June 13, 2005.

STEPHEN J. PACEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS