

SOAH DOCKET NO. 454-08-1884.M4
TWCC MDR NO. M4-03-9911-01

CONTINENTAL CASUALTY CO.,
Petitioner

V.

WACO ORTHO REHAB,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Continental Casualty Company (Carrier) requested a hearing on a decision by the Medical Review Division (MRD) of the Texas Department of Insurance, Division of Workers' Compensation (Division)¹ ordering additional reimbursement to Waco Ortho Rehab (Provider) for medical care provided to Claimant, an injured worker. Carrier argued that it submitted partial reimbursement to Provider before the MRD decision was issued and requested an order reflecting the amount it has previously submitted to Provider. The Administrative Law Judge (ALJ) finds Carrier has submitted partial reimbursement to the Provider before the MRD decision was issued and orders Carrier to pay additional reimbursement in the amount of \$1,745.00, plus any applicable interest.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

The MRD issued its decision on January 24, 2008. Carrier filed a timely and sufficient request for hearing. Notice of the hearing was appropriately issued to the parties. The hearing convened and concluded on March 17, 2008, with ALJ Steven M. Rivas presiding. Carrier appeared and was represented by David Swanson, attorney. Provider appeared and was represented by David N. Bailey, D.C. The record closed the same day.

¹ Effective September 1, 2005, the legislature dissolved the Texas Workers' Compensation Commission (Commission) and created the Division of Workers' Compensation within the Texas Department of Insurance. Act of June 1, 2005, 79th Leg., R.S., ch. 265, § 8.001, 2005 Tex. Gen. Laws 469, 607. This Decision and Order refers to the Commission and its successor collectively as the Division.

II. DISCUSSION

A. Factual Overview

Claimant sustained a compensable injury on _____, and was admitted to Provider, where Claimant underwent treatment. After Claimant was discharged, Provider submitted a bill to Carrier in the amount of \$7,515.00. Carrier denied payment based on medical necessity and the dispute was referred to the Commission's MRD, which ordered Carrier to reimburse Provider \$7,085.00 for the services rendered.

Carrier did not argue that Provider was not entitled to reimbursement. Carrier's only issue was with the amount of reimbursement. The parties stipulated that Carrier made a payment to Provider prior to the issuance of the MRD's decision.

B. Issues

1. What CPT codes and dates of service were included in the MRD decision?

The MRD decision included the following dates of service: August 14, 2002, to December 10, 2002. The following CPT codes were included: 99213, 99215, 99080-73, 97110, 97150, 97250, 97265, 97750-MT, and 95851. After applying the maximum allowable reimbursement (MAR) rate to each service, the MRD found Carrier was liable for \$7,085.00 reimbursement.

Claimant's treatment actually began on July 30, 2002, and his treatment continued through December 10, 2002. The parties did not explain why the MRD considered only the procedures performed on dates of service beginning August 14, 2002, to December 10, 2002.

2. How did the parties calculate Carrier's liability?

On September 3, 2003, Carrier paid Provider \$6,377.33 for the services it provided to Claimant from July 30, 2002, to December 10, 2002. This amount covered all dates of service and procedures rendered to Claimant except for CPT codes 97110, 99080-73, and 97750-MT, which were outlined in the MRD decision.

Prior to the hearing, the parties devised an updated table of disputed services² and offered the table as evidence. According to the table, Provider rendered 14 dates of service for CPT code 97110, which totaled \$3,675.00.³ Carrier has already paid \$1,960.00 for this procedure, which leaves an outstanding balance of \$1,715.00.

Next, the table reflects two dates of service for CPT code 99080-73 at \$15.00 each. Carrier has not reimbursed Provider anything, so the table reflects an outstanding balance of \$30.00 for this procedure.

Finally, the table reflects Provider rendered CPT code 97750-MT on four occasions at \$129.00 each for a total of \$516.00. For this procedure, Carrier has reimbursed Provider \$344.00 according to the table, which leaves a balance of \$172.00.

According to the table, Provider billed a total amount of \$4,221.00 for the above-mentioned CPT codes. Carrier has since reimbursed Provider a total of \$2,304.00. The total outstanding balance reflected on the table is \$1,917.00. However, at the time of hearing, the parties agreed through further stipulations that Provider does not seek reimbursement for CPT code 97750-MT in the amount of \$172.00. Therefore, the parties agree the total now due is \$1,745.00.

² Petitioner's Exhibit No. 1, page 59.

³ Most dates of service were billed at \$280, however three dates were billed at \$210, and one date was billed at \$245.

CPT Codes in dispute	Amount billed by Provider	Amount reimbursed by Carrier	Amount withdrawn by Provider	Total amount due
97710	\$3,675.00	\$1,960.00	0	\$1,715.00
99080-73	\$30.00	0	0	\$30.00
97750-MT	\$516.00	\$344.00	\$172.00	\$0
TOTALS	\$4,221.00	\$2,304.00	\$172.00	\$1,745.00

III. FINDINGS OF FACT

1. Claimant sustained a compensable injury on _____, in the course and scope of his employment; his employer had coverage with Continental Casualty Company (Carrier).
 2. Waco Ortho Rehab (Provider) provided medical treatment to Claimant for the compensable injury from July 30, 2002, through December 10, 2002.
 3. Provider submitted itemized bills totaling \$7,515.00 for the services provided to Claimant for the treatment in issue.
 4. Carrier denied reimbursement for the services on the basis that they were not medically necessary, and Provider requested Dispute Resolution Services from the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission).
 5. Effective September 1, 2005, the legislature dissolved the Commission and created the Division of Workers' Compensation within the Texas Department of Insurance. The Commission and its successor are collectively referred to as the Division.
 6. On January 24, 2008, the MRD ordered Carrier to reimburse Provider \$7,085.00 for the treatment rendered to Claimant from August 14, 2002, through December 10, 2002.
 7. Carrier timely requested a hearing before the State Office of Administrative hearings.
 8. All parties were provided not less than 10-days notice of the hearing and of their rights under the applicable rules and statutes.
 9. The hearing in this matter convened on March 17, 2008, with Administrative Law Judge (ALJ) Steven M. Rivas presiding. Carrier appeared and was represented by David Swanson, attorney. Provider appeared and was represented by David N. Bailey, D.C. The hearing concluded and the record closed the same day.
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10. Carrier did not argue that Provider was not entitled to reimbursement. Carrier's only issue was with the amount of reimbursement.
11. The MRD decision issued on January 24, 2008, did not address any services Provider rendered from July 30, 2002, to August 14, 2002.
12. On September 3, 2003, Carrier issued reimbursement of \$6,377.33, for services rendered to Claimant from July 30, 2002, through December 10, 2002.
13. The reimbursement issued by Carrier on September 3, 2003, covered most of the services provided to Claimant except for CPT codes 97110, 99080-73, and 97750-MT, which were outlined in the MRD decision.
14. The total amount Provider billed Carrier for the services rendered in Finding of Fact No. 12 was \$4,221.00.
15. The total amount Carrier has reimbursed Provider for the services rendered in Finding of Fact No. 12 is \$2,304.00.
16. According to the updated table of disputed services offered by both parties, Carrier is liable for \$1,917.00 additional reimbursement.
17. Provider agreed to withdraw its \$172.00 reimbursement request for CPT Code 97750-MT.
18. The amount Carrier owes Provider is \$1,745.

IV. CONCLUSIONS OF LAW

1. 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. §§ 402.073 and 413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
2. Carrier timely requested a hearing, as specified in 28 TEX. ADMIN. CODE (TAC) § 148.3.
3. Proper and timely notice of the hearing was provided to the parties in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Carrier had the burden of proof in this matter pursuant to 28 TAC § 148.21(h) and (i).

5. An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed in accordance with TEX. LAB. CODE ANN. § 408.021.
6. Based on the foregoing findings of fact and conclusions of law, Carrier owes Provider an additional reimbursement of \$1,745.00, plus any applicable interest.

ORDER

It is hereby **ORDERED** that Continental Casualty Company reimburse Waco Ortho Rehab the additional sum of \$1,745.00, plus any applicable interest, for services provided to Claimant.

SIGNED May 13, 2008.

STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS