

SOAH DOCKET NO. 454-17-5716.M4-NP
MR NO. _____

CARRIER,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	OF
	§	
HEALTHCARE PROVIDER,	§	
Respondent	§	
	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

(Carrier) sought a contested case hearing regarding a Medical Fee Dispute Resolution Findings and Decision (MDR Decision) issued by the Texas Department of Insurance, Division of Workers' Compensation (Division). The MDR Decision ordered Carrier to reimburse (Healthcare Provider) (Provider) \$1,570.66 for services provided to an injured worker. Carrier appeals the MDR Decision on the basis that compensability is in dispute, and therefore the Division should have dismissed the request due to lack of jurisdiction. The Administrative Law Judge (ALJ) concludes that because the Medical Fee Dispute Resolution (MFDR) request includes unresolved issues of compensability, the request is not ripe and Provider is not entitled to reimbursement by Carrier at this time.

I. NOTICE AND PROCEDURAL HISTORY

On March 4, 2016, Carrier issued a plain language notice (PLN) to the injured worker notifying him that his claim for workers' compensation benefits was being denied.¹ On March 21, 2016, Provider tendered medical services to the injured worker. On April 15, 2016, Carrier issued an explanation of benefits (EOB) to Provider recommending payment of \$0 because the entitlement to benefits had not been finally adjudicated.² On February 28, 2017,

¹ Carrier Ex. No. 5 at 17.

² Carrier Ex. No. 4 at 12-13.

Provider filed a request for MFDR with the Division.³ On March 22, 2017, Carrier submitted its response to the MFDR request, including a copy of the last EOB sent (dated March 9, 2017) and the PLN letter.⁴ On June 26, 2017, the Division issued the MDR Decision, in which it determined that Carrier failed to follow the proper administrative process in handling this medical fee dispute, by failing to deny compensability to the Provider before the request for MFDR was filed.⁵ As a result, the MDR Decision also determined that Carrier owed Provider a total of \$1,570.66 for the services in dispute. On August 16, 2017, Carrier requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the MDR Decision. On August 21, 2017, the Division issued a Notice of Hearing.

A hearing convened before ALJ Meitra Farhadi on November 15, 2017, at SOAH's facilities in Austin, Texas. Carrier offered six exhibits, all of which were admitted into evidence. The record closed the same day. Carrier appeared through attorney (Attorney). Provider did not appear. However, as the party seeking relief from the MDR Decision, Carrier had the burden of proof.⁶

II. APPLICABLE LAW

Unresolved disputes “over the amount of payment due for services determined to be medically necessary and appropriate for treatment of a compensable injury” may be resolved by a contested case hearing at SOAH.⁷ The issue in this case revolves around interpretation of 28 Texas Administrative Code § 133.305(b), which states:

Dispute Sequence. If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability, or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code § 413.031 and § 408.021.

³ Carrier Ex. No. 1 at 1.

⁴ Carrier Ex. No. 5.

⁵ Carrier Ex. No. 1.

⁶ 28 Tex. Admin. Code § 148.14(b).

⁷ Tex. Labor Code §§ 413.031(c), .0312(a), (e).

Division rules further state that if a response to an MFDR request “includes unresolved issues of compensability, extent of injury, liability, or medical necessity, the request for MFDR will be dismissed in accordance with subsections (f)(3)(B) or (C) of this section.”⁸ 28 Texas Administrative Code § 133.307(f)(3)(B) and (C) state:

(f) MFDR Action. The division will review the completed request and response to determine appropriate MFDR action.

...

(3) Dismissal. A dismissal is not a final decision by the division. The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of this section. The division may dismiss a request for MFDR if:

...

(B) the request contains an unresolved adverse determination of medical necessity; [or]

(C) the request contains an unresolved compensability, extent of injury, or liability dispute for the claim[.]

III. CARRIER’S ARGUMENT

Carrier argues that the Division did not have jurisdiction to determine the medical fee dispute because compensability is disputed and still pending; therefore, pursuant to Division rules, the Division should have dismissed the claim. As support, Carrier points to the March 22, 2017 response it filed with the Division in response to the MFDR request by Provider. In the response Carrier stated that the charges were disputed because it was a controverted claim; that the EOB and PLN were attached as support; and that “MFDR is the wrong jurisdiction for a compensability dispute.”⁹ The PLN attached to the response is dated March 4, 2016, and states that Carrier is denying compensability and refusing to pay workers’ compensation benefits because the claimant is suffering from an ongoing problem and an ordinary disease of life.¹⁰

⁸ 28 Tex. Admin. Code § 133.307(d)(2)(F).

⁹ Carrier Ex. No. 5 at 14.

¹⁰ Carrier Ex. No 5 at 17.

While the EOB attached to Carrier’s response letter was dated March 9, 2017, it is identical to the EOB issued to Provider on April 15, 2016.¹¹

IV. ANALYSIS

The Texas Labor Code provides a medical dispute resolution process for “disputes over the amount of payment due for services determined to be medically necessary and appropriate *for treatment of a compensable injury.*”¹² The dispute sequence in the Division’s rules provide that disputes regarding compensability *shall* be resolved prior to the submission of a medical fee dispute for the same services.¹³ The Division’s rules also state that a response to MFDR may only address the denial reasons presented to the requestor prior to the date the request for MFDR was filed; and that any new reasons or defenses raised shall not be considered in the review.¹⁴ The evidence offered in this case demonstrates that Carrier denied compensability and refused to pay workers’ compensation benefits to Provider on April 15, 2016. However, the responsive material submitted to the Division was a later-dated EOB—explaining why the Division asserted that it could not consider the denial of compensability in its review.

Regardless, the ripeness doctrine prevents premature adjudication of hypothetical or contingent situations.¹⁵ In this case, there can be no resolution of the amount due to Provider for treatment of a compensable injury until it is first determined that the injury is compensable.

V. FINDINGS OF FACT

1. On March 4, 2016, (Carrier) issued a plain language notice (PLN) to the injured worker notifying him that his claim for workers’ compensation benefits was being denied.
2. On March 21, 2016, (Healthcare Provider) tendered medical services to the injured worker.
3. On April 15, 2016, Carrier issued an explanation of benefits (EOB) to Provider

¹¹ See Carrier Exs. No. 4 at 12 and No. 5 at 15.

¹² Tex. Labor Code § 413.031(c) (emphasis added).

¹³ 28 Tex. Admin. Code § 133.305(b).

¹⁴ 28 Tex. Admin. Code § 133.307(d)(2)(F).

¹⁵ *Waco Indep. Sch. Dist. v. Gibson*, 22 S.W.3d 849, 853 (Tex. 2000).

recommending payment of \$0 because the entitlement to benefits had not been finally adjudicated.

4. On February 28, 2017, Provider filed a request for Medical Fee Dispute Resolution (MFDR) with the Texas Department of Insurance, Division of Workers' Compensation (Division).
5. On March 22, 2017, Carrier submitted its response to the MFDR request, including a copy of the last EOB sent (dated March 9, 2017) and the PLN letter.
6. On June 26, 2017, the Division issued a Medical Fee Dispute Resolution Findings and Decision (MDR Decision), in which it determined that Carrier failed to follow the proper administrative process in handling this medical fee dispute. As a result, the MDR Decision also determined that Carrier owed Provider a total of \$1,570.66 for the services in dispute.
7. On August 16, 2017, Carrier requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the MDR Decision.
8. On August 21, 2017, the Division issued a Notice of Hearing. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted.
9. The hearing was held November 15, 2017, before Administrative Law Judge Meitra Farhadi at the SOAH offices located in Austin, Texas. Carrier appeared through attorney (Attorney). Provider did not appear. The record closed the same day.
10. A dispute exists regarding compensability for the same service for which there is a medical fee dispute.
11. Carrier's response to the MFDR request included unresolved issues of compensability.

VI. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to Texas Labor Code § 413.0311 and Texas Government Code ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051, .052.

3. As the party seeking relief from the MDR Decision, Carrier had the burden of proof. 28 Tex. Admin. Code § 148.14(b).
4. The health care provider may request an MFDR to resolve his or her request for reimbursement from the insurance carrier for medical bills for treatment or services provided. 28 Tex. Admin. Code § 133.307(b)(1).
5. If a dispute regarding compensability exists for the same service for which there is a medical fee dispute, the dispute regarding compensability shall be resolved prior to the submission of a medical fee dispute. 28 Tex. Admin. Code § 133.305(b).
6. If a response to an MFDR request includes unresolved issues of compensability, the request for MFDR will be dismissed in accordance with 28 Texas Administrative Code § 133.307(f)(3)(C). 28 Tex. Admin. Code § 133.307(d)(2)(F).
7. The Division may dismiss a request for MFDR if the request contains an unresolved compensability dispute. 28 Tex. Admin. Code § 133.307(f)(3)(C).
8. Because the MFDR request includes unresolved issues of compensability, the request is not ripe and Provider is not entitled to reimbursement by Carrier at this time.

ORDER

THEREFORE, IT IS ORDERED THAT (Carrier) is not required to pay the disputed amount to (Provider) at this time.

NON-PREVAILING PARTY DETERMINATION

Texas Labor Code § 413.0312(g) and 28 Texas Administrative Code § 133.307(h) require the non-prevailing party to reimburse the Division for the cost of services provided by SOAH. Texas Labor Code § 413.0312(i) requires SOAH to identify the non-prevailing party and any costs for services provided by SOAH in its final decision. For purposes of Texas Labor Code § 413.0312, (Provider) is the non-prevailing party. The costs associated with this decision are set forth in Attachment A to this Decision and Order and are incorporated herein for all purposes.

SIGNED January 11, 2018.

MEITRA FARHADI
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS