
**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**MUELLER SURGERY CENTER, LLC,
PETITIONER
V.
STANDARD FIRE INSURANCE COMPANY,
RESPONDENT**

DECISION AND ORDER ON SUMMARY DISPOSITION

On or about January 2, 2024, the Texas Department of Insurance (TDI), Division of Workers' Compensation (Division), referred this matter to the State Office of Administrative Hearings, wherein Mueller Surgery Center, LLC (Petitioner) seeks to appeal a Medical Fee Dispute Decision. On April 5, 2024, Respondent, Standard Fire Insurance Company (Carrier), filed a Motion for Summary Disposition (Motion), arguing that Petitioner failed to timely file its request (Request) for Medical Fee Dispute Resolution (MFDR) and, therefore, waived its right to any additional reimbursement. Petitioner did not respond to the Motion, and the Administrative Law Judge (ALJ) granted the Motion on

May 13, 2024. In this Decision and Order, the ALJ finds the evidence demonstrates that Petitioner is not entitled to any additional reimbursement.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Issues of jurisdiction and notice were undisputed. Therefore, those matters are set out in the Findings of Fact and Conclusions of Law.

The case was set for a hearing on May 21, 2024. On April 5, 2024, Carrier timely filed its Motion and supporting evidence, more than 30 days before the hearing on the merits.¹ Petitioner was served with the Motion but did not file a response. The ALJ granted the Motion on May 13, 2024.

II. SUMMARY DISPOSITION EVIDENCE

The summary disposition evidence establishes the following relevant facts:

1. Petitioner provided an ambulatory surgical center for surgical services to a workers' compensation claimant on July 22, 2022 (the date of service).²
2. Petitioner submitted billing for these services in the amount of \$19,464.55; and Carrier reimbursed Petitioner for those services in the amount of \$10,050.16, pursuant to 28 Texas Administrative Code section 134.402, the Ambulatory Surgical Center Fee Guideline.³

¹ 1 Tex. Admin. Code § 155.505(b)(1).

² Carrier Ex. A (HCFA-1500 Billing Statement).

³ Carrier Ex. B (Explanation of Reimbursement).

3. Petitioner filed a Request for MFDR with the Division on September 27, 2023, disputing the amount of reimbursement and seeking additional reimbursement from Carrier.⁴

III. APPLICABLE LAW

Summary disposition of a contested case may be granted, in full or in part, without the necessity of a hearing on the merits if the pleadings, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion.⁵

A provider must timely file a request for MFDR with the Division or waive the right to MFDR.⁶ A request is filed on the date the Division receives the request.⁷ For the services at issue here, Petitioner was required to file its Request no later than one year after the dates of service in dispute.⁸

As the party seeking relief in this matter, Petitioner has the burden of proof by the preponderance of the evidence.⁹

⁴ Carrier Ex. C (Request for MDR - DWC-60).

⁵ 1 Tex. Admin. Code § 155.505(a).

⁶ 28 Tex. Admin. Code § 133.307(c)(1).

⁷ 28 Tex. Admin. Code § 133.307(c)(1).

⁸ 28 Tex. Admin. Code § 133.307(c)(1)(A).

⁹ 28 Tex. Admin. Code § 148.14(b) (this hearing was conducted pursuant to Tex. Labor Code § 413.0312); 1 Tex. Admin. Code § 155.427.

IV. ANALYSIS

Petitioner waived its right to additional reimbursement under 28 Texas Administrative Code section 133.307(c)(1) by failing to file its Request for MFDR with the Division within one year of the date of service. The service at issue was provided on July 22, 2022.¹⁰ Therefore, Petitioner was required to file its Request for MFDR no later than July 22, 2023.¹¹ The Division received Petitioner's Request on September 27, 2023 (the date of filing), which is 67 days past the one-year filing deadline.¹² As such, the Request for MFDR was not timely filed and, under 28 Texas Administrative Code section 133.307(c)(1), Petitioner has waived the right to MFDR. Consequently, Petitioner is not entitled to the additional reimbursement sought.

V. FINDINGS OF FACT

1. Mueller Surgery Center, LLC (Petitioner) provided an ambulatory surgical center for surgical services to a workers' compensation claimant (Claimant) on July 22, 2022 (the date of service).
2. Petitioner submitted billing for the services to Standard Fire Insurance Company (Carrier) in the amount of \$19,464.55, and Carrier reimbursed Petitioner for those services in the amount of \$10,050.16.
3. Petitioner filed a request (Request) for Medical Fee Dispute Resolution (MFDR) with the Texas Department of Insurance, Division of Workers' Compensation (Division) on September 27, 2023.

¹⁰ Carrier Ex. A.

¹¹ The parties neither argued nor provided any evidence that any of the exceptions set forth in 28 Texas Administrative Code section 133.307(c)(1)(B) apply to this medical fee dispute.

¹² Carrier Ex. C.

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4. On January 2, 2024, the Division referred this matter to the State Office of Administrative Hearings (SOAH).
 5. On April 5, 2024, which was more than 30 days before the scheduled hearing on the merits, Carrier filed a Motion for Summary Disposition (Motion), arguing that Petitioner failed to timely file its Request for MFDR and, therefore, waived its right to any additional reimbursement.
 6. Petitioner did not respond to the Motion.
 7. The SOAH Administrative Law Judge granted the Motion on May 13, 2024.

VI. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over these proceedings, including the authority to issue a decision and order, pursuant to Texas Labor Code section 413.0312(e) and Texas Government Code chapters 2001 and 2003.
2. As the party seeking relief, Petitioner had the burden of proving by a preponderance of the evidence that it had not been reimbursed a fair and reasonable amount by Carrier for the services provided and was entitled to additional reimbursement. 28 Tex. Admin. Code § 148.14(b); 1 Tex. Admin. Code § 155.427.
3. A requestor shall timely file the request with the Division's MFDR section or waive the right to MFDR. The request for MFDR must be filed no later than one year after the date(s) of service in dispute. 28 Tex. Admin. Code § 133.307(c)(1)(A).
4. The exceptions to the one-year filing deadline set out in 28 Texas Administrative Code section 133.307(c)(1)(B) do not apply to Petitioner's claims for services.
5. Petitioner waived the right to MFDR as to the July 22, 2022 service(s); therefore, Petitioner is not entitled to any additional reimbursement for medical services provided to Claimant on that date. 28 Tex. Admin. Code § 133.307(c)(1)(A).

6. Petitioner failed to show by a preponderance of the evidence that it is entitled to additional reimbursement for the services at issue in this proceeding.

VII. ORDER

Petitioner is not entitled to additional reimbursement for services provided July 22, 2022, because Petitioner waived its claims for such services.

VIII. NON-PREVAILING PARTY DETERMINATION

Texas Labor Code section 413.0312(g) and 28 Texas Administrative Code section 133.307(h) require the non-prevailing party to reimburse the Division for the cost of services provided by SOAH. Texas Labor Code section 413.0312(i) requires that SOAH identify the non-prevailing party and any costs for services provided by SOAH in its final decision. For purposes of Texas Labor Code section 413.0312, Petitioner 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 July 2, 2024.

ALJ Signature:

Megan Johnson

Presiding Administrative Law Judge