

FINAL AWARD ON MEDICAL FEE DISPUTE
(Affirming Award and Decision of Administrative Law Judge
with Supplemental Opinion)

Injury No.: 99-115003
Medical Fee Dispute No.: 99-00706

Employee: Rebecca Wilmoth

Employer: New Prime, Inc.

Insurer: Self-Insured

Health Care Provider: Franciscan Health Systems

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. The Commission has reviewed the evidence, read the briefs, heard oral argument and considered the whole record. All motions seeking to strike or limit the briefs are denied. The Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated April 12, 2005.

The controlling statute, section 287.140.3 RSMo, in pertinent part, provides:

“All fees and charges under this chapter shall be fair and reasonable, ... A health care provider shall not charge a fee for treatment and care which is governed by the provisions of this chapter greater than the usual and customary fee the provider receives for the same treatment or service when the payor for such treatment or services is a private individual or a private health insurance carrier. ...”

Where a health care provider presents testimony and evidence relating medical bills to an injury and places in evidence the accompanying medical bills and records, the burden of going forward with the evidence shifts to the employer or insurance carrier to prove that such medical bills were unreasonable and unfair.

Also, and when necessary, the employer must satisfy its burden of proof that a health care provider shall not charge a fee for treatment and care greater than the usual and customary fee the provider receives for the same treatment or service when the payor for such treatment or service is a private individual or a private health insurance carrier.

In the instant case, simply stated, the health care provider established a prima facie case that its charges were fair and reasonable. Subsequently, the employer failed to satisfy its burden of proof that the contested bills were not reasonable and fair; and, employer failed to satisfy its burden of proof that the health care provider usually and customarily receives amounts less than that billed for the employee's treatment.

The employer has failed to satisfy its burden of proof to each affirmative defense asserted.

The award and decision of Administrative Law Judge Robert J. Dierkes, issued April 12, 2005, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 21st day of June 2006.

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary