

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

AHC on Behalf of Northwest
Texas Healthcare System

Respondent Name

Texas Mutual Insurance Co.

MFDR Tracking Number

M4-03-2200-02

Carrier's Austin Representative

Box Number 54

DWC Date Received

January 13, 2003

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 18, 2002 to February 23, 2002	Inpatient Hospital Services	\$32,832.31	\$0.00

Requestor's Position

Requestor's Position Summary: "Claim should be paid at 75% as bill exceeds 40k."

Amount in Dispute: \$32,832.31

Respondent's Position

Respondent's Position Summary Dated January 29, 2003: "Review of the requester's bill indicates the actual hospital admission charges were below the \$40,000 threshold. Using the per diem rate of \$1118.00 for a 5-day admission, the TMI reimbursed the requester \$5590.00 ... Further review of the bill revealed additional inflated charges for implants. In accordance with Rule 134.401(c)(4)(A), the TMI rendered reimbursement for the implantables at cost plus 10% for a total of \$18,054.30, using invoices supplied by the requestor ... The total reimbursement-hospital charges plus implantables—was \$25,262.31."

Respondent's Supplemental Position Summary Dated August 11, 2017: "In 2007 and 2008, the State Office of Administrative Hearings (SOAH) erroneously ordered Texas Mutual Insurance Company (Texas Mutual) to pay 'stop-loss' reimbursement to several hospitals based on SOAH's erroneous 'one-prong' interpretation of the stop-loss exception ... At the request of DWC-MFDR, Texas Mutual is supplementing the record in this dispute to include the petition it filed in Travis County District Court seeking refunds for the erroneously ordered stop-loss reimbursement, which includes the SOAH decision and order and Texas Mutual's Explanation of Benefit showing the amount Texas Mutual was erroneously ordered to pay."

Responses Submitted by: Texas Mutual Insurance Co

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.305, 27 Texas Register 12282](#), applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical disputes.
2. [28 TAC §133.304, 17 Texas Register 1105](#), effective February 20, 1992, sets out the provisions for insurance carriers to dispute and audit medical bills.
3. [28 TAC §133.307, 27 Texas Register 12282](#), applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
4. [28 TAC §134.1, 27 Texas Register 4047](#), effective May 16, 2002, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable Division fee guideline.
5. [28 TAC §134.401, 22 Texas Register 6246](#), effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- O – Denial after reconsideration
- F – Fee guideline MAR reduction
- N – Not appropriately documented
- YO – Reimbursement was reduced or denied after reconsideration of treatment/service billed

- TR – Reimbursed in accordance with the Texas Hospital Fee Guideline. The intent of Stop-Loss payment is to compensate hospitals for inpatient stays that are costly to the facility by an unusually long length of stay or the provision of unusually costly types of services. The provision of implantables through the facility does not fit either of these situations.
- TR – Reimbursed in accordance with the Texas Hospital Fee Guideline
- YN – Documentation has not been submitted to substantiate the service.
- YS – Supplemental payment
- RN – When medically necessary, implantables, orthotics and prosthetics are reimbursed at cost to the hospital plus 10% per the Texas Acute Care Inpatient Hospital Fee Guideline
- M – No mar
- YM – The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011 (D)

Dispute History

- This dispute was originally decided on July 15, 2004.
- The original dispute decision was appealed to District Court.
- The 126th Judicial District remanded the dispute to the division pursuant to an agreed order of remand D-1-GN-07-003970 dated June 2014.
- As a result of the remand order, the dispute was re-docketed at the DWC's medical fee dispute resolution section.
- M4-03-2200-02 is hereby reviewed.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?
5. Is a refund claim presented for adjudication?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 TAC §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this dispute were given an opportunity to supplement the original MDR submissions after the 3rd

Court of Appeals Decision. The respondent to the dispute submitted a supplemental position. This Position was exchanged among the parties as appropriate. Documentation filed by the requestor and respondent to date is considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the DWC will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 TAC §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold..." In that same opinion, the Third Court of Appeals states that the stop loss exception "...was meant to apply on a case-by-case basis in relatively few cases." 28 TAC §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 TAC §134.401(c)(6)(A)(i) states, "to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, 28 TAC §134.401(c)(6)(A)(v) states that "Audited charges are those charges which remain after a bill review by the insurance carrier has been performed." Review of the explanation of benefits issued by the respondent finds that the carrier did not deduct any charges in accordance with 28 TAC §134.401(c)(6)(A)(v). Therefore, the audited charges equal \$77,460.20. The DWC concludes that the total audited charges exceed \$40,000.00.
2. 28 TAC §134.401(c)(6) states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services.

The requestor's position statement does not address how this inpatient admission was unusually costly. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar spinal surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The DWC concludes that the requestor failed to meet the requirements of 28 TAC §134.401(c)(6).

3. 28 TAC §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). 28 TAC §134.401(c)(6)(A)(ii) states that "this stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission."

The Third Court of Appeals' November 13, 2008 opinion states that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." It further states that "independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases." The requestor, in its original position statement, states that "Claim should be paid at 75% as bill exceeds 40k." This statement does not meet the requirements of 28 TAC §134.401(c)(2)(C) because the requestor presumes that the disputed services meet the stop-loss exception since the billed

amount was over \$40,000.00, thereby presuming that the admission was unusually extensive. The DWC concludes that the requestor failed to meet the requirements of 28 TAC §134.401(c)(2)(C).

4. For the reasons stated above, the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 TAC §134.401(c)(1) subtitled *Standard Per Diem Amount* and §134.401(c)(4) subtitled *Additional Reimbursements*. The DWC notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

28 TAC §134.401(c)(3)(A)(ii) states, in pertinent part, that “The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission ...” A review of the submitted documentation finds that the length of stay for this admission was five surgical days; therefore, the standard per diem amount of \$1,118.00 multiplied by the five days result in a total allowable amount of \$5,590.00.

28 TAC §134.401(c)(4)(A), states, “When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274).” A review of the submitted medical bill indicates that the requestor billed revenue code 278 for implants at \$36,144.00. The requestor also billed revenue code 274 for orthotics and prosthetics at \$8,484.00.

The medical documentation provided finds that although the requestor billed items under revenue code 274 and 278, the itemized statement is not sufficiently legible to determine what implants, orthotics, or prosthetics correspond to the submitted invoices applicable to the dates of service. For that reason, no additional reimbursement can be recommended.

The DWC concludes that the total allowable for this admission is \$5,590.00. The respondent issued payment in the amount of \$25,262.84. Based upon the documentation submitted, additional reimbursement cannot be recommended.

5. Per the foregoing analysis, the respondent insurance carrier has issued payment that exceeds the total allowable for this admission. In its supplemental response to this medical fee dispute, the insurance carrier “asks the MFDR to include in its ruling on the proper stop-loss reimbursement amount, a decision on the ‘refund’ issue ...”

The DWC’s medical fee dispute resolution process involves a case-by-case determination of fee disputes presented. The DWC’s adjudication of such a claim at this time would be premature. This process neither allows for nor requires consideration of, or response to, any parties’ request that the DWC generally state its position as to a potential claim, however related to a pending dispute, that may or may not be asserted in the future.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 TAC §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

Order

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the DWC has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 27, 2023

Date

Your Right to Appeal

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed Request for a Medical Contested Case Hearing (form DWC045A) must be received by the DWC Chief Clerk of Proceedings within twenty days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MFDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. Please include a copy of this Medical Fee Dispute Resolution Findings and Decision, together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a certificate of service demonstrating that the request has been sent to the other party.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.