



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

VISTA MEDICAL CENTER HOSPITAL
4301 VISTA ROAD
PASADENA, TX 77504

Carrier's Austin Representative Box

#14

Respondent Name

MID-CENTURY INSURANCE CO.

MFDR Date Received

JANUARY 27, 2003

MFDR Tracking Number

M4-03-2477

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated February 17 2003: ...“The date of service involved in this dispute was from January 30, 2002 through February 21, 2002...The Carrier denied payment only with payment exception code 'N' for pre-op items and 'H' for the remaining items and did not provide an EOB for a portion of the billed items. Texas Administrative Code Section 133.304 specifically provides ‘the explanation of benefits **shall include the correct payment exception codes** required by the Commission's instructions’...if the total audited charges for *the entire admission* are at or above \$40,000, the Carrier shall reimburse using the ‘Stop-Loss reimbursement Factor’ (SLRF). The SLRF of 75% is applied to the ‘entire admission’.”

Amount in Dispute: \$127,216.31

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated March 6 2003: “All methods of determining reimbursement must meet the statutory requirements set forth in section 413.011 of the Act. Vista has the burden of proof in this case. However, Vista has not established that it is entitled to additional reimbursement...The amounts paid by Carrier for each of the three UB-92s submitted by Vista not only meet but exceed the statutory criteria for reimbursement under section 413.011 of the Act. Therefore, Vista is not entitled to additional reimbursement.”

Response Submitted by: Wilson Grosenheider & Jacobs, L.L.P.

Respondent's Supplemental Position Summary Dated December 17, 2012: “The inpatient hospital facility services provided by Vista Medical Center Hospital (Requestor) were not unusually costly and unusually extensive. Therefore, Requestor is not entitled to reimbursement under the stop-loss exception but should instead be reimbursed under the standard per diem reimbursement method. Requestor has not identified any specific services it contends were unusually extensive and it has not established the unusual cost of those services. In short, Requestor has not met its burden of proof.”

Response Submitted by: Stone Loughlin & Swanson, LLP

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
January 30, 2002 through February 21, 2002	Inpatient Hospital Services	\$127,216.31	\$1,959.91

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.304, 17 *Texas Register* 1105, effective February 20, 1992, amended effective July 15, 2000 sets out the procedures for medical payments and denials
2. 28 Texas Administrative Code §133.305 and §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.
3. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits - Outpatient Services

- TX N Not Documented

Explanation of Benefits - Inpatient Services

- TX M No MAR
- TX S Supplemental Payment
- TX H Half payment

Dispute M4-03-2477 was originally decided on March 23, 2004 and subsequently appealed to a judicial hearing at the 250th Judicial District under case number D-1-GN-06-000392. This dispute was then remanded to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) pursuant to a December 1, 2011 Judicial District order of remand. As a result of the remand order, the dispute was re-docketed at medical fee dispute resolution and is hereby reviewed.

Issues

1. Does this dispute include outpatient and inpatient hospital services?
2. Did the respondent provide sufficient explanation for denial of the disputed services?
3. Did the audited charges exceed \$40,000.00 for the inpatient hospitalization?
4. Did the admission in dispute involve unusually extensive services?
5. Did the admission in dispute involve unusually costly services?

Findings

This dispute relates to outpatient services and inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §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 Texas Administrative Code §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 case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each party was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The documentation filed by the requestor and respondent to date is considered.

Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division 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 Texas Administrative Code §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 as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. Review of the submitted explanation of benefits finds that the requestor billed \$2,436.94 for date of service January 30, 2002 on an outpatient hospital bill; and \$155,190.96 for date of service January 31, 2002 and \$71,520.38 for February 1 through 21, 2002 on an inpatient hospital bill. 28 Texas Administrative Code §134.401(b)(1)(B) states "Inpatient Services – Health care, as defined by the Texas Labor Code §401.011(19), provided by an acute care hospital and rendered to a person who is admitted to an acute care hospital and whose length of stay exceeds 23 hours in any unit of the acute care hospital."
2. 28 Texas Administrative Code §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, (A) (v) of that same section states "...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 carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v). The division concludes that the total audited charges exceed \$40,000.
3. The requestor in its position statement asserts that "However, if the total audited charges for the entire admission are at or above \$40,000.00, the Carrier shall reimburse using the "Stop-Loss Reimbursement Factor" (SLRF). The SLRF of 75% is applied to the entire admission." As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment to the contrary. 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 extensive services." The requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
4. In regards to whether the services were unusually costly, the requestor presupposes that because the bill exceeds \$40,000, the stop loss method of payment should apply. 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 thereby affirming 28 Texas Administrative Code §134.401(c)(6) which 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 requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
5. 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 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division 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.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(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..." The length of stay was twenty-three days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of twenty-three days results in an allowable amount of \$25,714.00.
 - 28 Texas Administrative Code §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)."

Review of the requestor's medical bill finds that the following items were billed under revenue code 278 and are therefore eligible for separate payment under §134.401(c)(4)(A):

Rev Code	Itemized Statement Description	Cost Invoice Description	UNITS / Cost Per Unit	Total Cost	Cost + 10%
278	Endcap 13mm	Assy, Package, implant, 13mm, sterile, bak/l endcap	2 units @ \$150.00 ea	\$300.00	\$330.00
278	Interbody Bak Cage	Bak/L, Assy, 13x24mm, package, implant, sterile	2 units @ \$2,565.00 ea	\$5,130.00	\$5,643.00
278	Spinal Fusion Stimulator	Not Supported by Invoice	1 unit	N/A	N/A
278	Osteofill 10cc bonepaste	Osteofil Paste 10cc	3 units @ \$1,150.00 ea	\$3,450.00	\$3,795.00
278	Cancellous Bone Chip	Cancellous Chips 30cc	3 units @ \$495.00	\$1,485.00	\$1,633.50
278	11mm Lock Nut	Silhouette Locking Nut	8 units @ \$115.00 ea	\$920.00	\$1,012.00
278	Transconnector nut	Silhouette Transverse Connector Nut	2 units @ \$55.00 ea	\$110.00	\$121.00
278	ROD 5.5	Silhouette Rod, 5.5mm dia. X 20cm length	2 units @ \$270.00 ea	\$540.00	\$594.00
278	Transconnector Insert	Silhouette Transverse Connector Insert	2 units @ \$85.00 ea	\$170.00	\$187.00
278	Rod Template	Asy, Rod Template, 15 cm, non-sterile, packaged	1 unit @ \$105.00 ea	\$105.00	\$115.50
278	7X40 Screw	Silhouette Polyaxial screw w/ tabs assembly 7.5 x 40MM	6 units @ \$835.00 ea	\$5,010.00	\$5,511.00
278	Screws 7x45mm	Silhouette Polyaxial Screw w/ tabs assembly 7.5X45MM	2 units @ \$835.00 ea	\$1,670.00	\$1,837.00
278	Implant Assembly	Silhouette, sleeve with set screw, assy	1 unit @ \$225.00	\$225.00	\$247.00
278	Low Profil Transconnector	Connector, Transverse, 53mm x 66mm, internal silhouette	1 unit @ \$165.00	\$165.00	\$181.50
278	Dupen Epidural Catheter	Not Supported by Invoice	1 unit	N/A	N/A
TOTAL ALLOWABLE				\$21,208.00	

- 28 Texas Administrative Code §134.401(c)(4)(C) states “Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time.” A review of the submitted itemized statement finds that the requestor billed \$289.00/unit for Dilaudid PCA 100ML and \$425.00/unit for Epidural 0.1% 250ML. The requestor did not submit documentation to support what the cost to the hospital was for these pharmaceuticals billed under Revenue Code 250. For that reason, reimbursement for these items cannot be recommended.

The division concludes that the total allowable for this admission is \$46,922.00. The respondent issued payment in the amount of \$44,780.59. Based upon the documentation submitted, additional reimbursement in the amount of \$1,959.91 is recommended.

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 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The division hereby ORDERS the respondent to remit to the requestor the amount of \$1,959.91 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	1/31/2014
Signature	Medical Fee Dispute Resolution Officer	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 MDR 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 the *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.