Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

RENAISSANCE HOSPITAL
C/O BURTON & HYDE PLLC
PO BOX 684749
AUSTIN TX 78768-4749

Respondent Name

NEW HAMPSHIRE INSURANCE COMPANY

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-07-5709-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our company has purchased national hospital payment data from 'Cleverly and Associates': a nationally recognized company. This data is known as Med Par Data, based on this data, we have established a PAF or payment adjustment factor to be applied to our hospital specific Medicare OPPS reimbursement rate and determined this to be our interpretation and application of fair and reasonable… The PAF we have established is 213.83% of our hospital specific Medicare Outpatient Prospective Payment System reimbursement rate; this rate is consistent with most commercial and private payers with in this region."

Amount in Dispute: $3,866.36

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier has accepted as compensable an injury limited to a left knee sprain or strain and a lumbar strain. Accordingly, if the knee condition treated surgically was unrelated to the compensable injury, reimbursement would not be owed... Again, to date, the Claimant has either acquiesced in the Carrier's position or has failed/refused to file a request for dispute resolution of the extent issue."

Response Submitted by: Flahive, Ogden & Latson, 504 Lavaca, Suite 1000, Austin, Texas 78701

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 31, 2006	Outpatient Services	$3,866.36	$0.00

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 §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1, effective May 2, 2006, 31 *Texas Register* 3561, requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(d) which states that "Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available."
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. This request for medical fee dispute resolution was received by the Division on May 3, 2007.
5. U.S. Bankruptcy Judge Michael Lynn issued a "STIPULATION AND ORDER GRANTING RELIEF FROM AUTOMATIC STAY TO PERMIT CONTINUANCE AND ADJUDICATION OF DISPUTED WORKERS COMPENSATION CLAIMS BEFORE THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS," dated August 27, 2010, in the case of *In re: Renaissance Hospital – Grand Prairie, Inc. d/b/a/ Renaissance Hospital – Grand Prairie, et al.*, in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division in Case No. 08-43775-7. The order lifted the automatic stay to allow continuance of the claim adjudication process as to the workers' compensation receivables before SOAH, effective October 1, 2010. The order specified John Dee Spicer as the Chapter 7 trustee of the debtor's estate. By letter dated October 5, 2010, Mr. Spicer provided express written authorization for Cass Burton of the law office of Burton & Hyde, PLLC, PO Box 684749, Austin, Texas 78768-4749, to be the point of contact on Mr. Spicer's behalf relating to matters between and among the debtors and the Division concerning medical fee disputes. The Division will utilize this address in all communications with the requestor regarding this medical fee dispute.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - W4 – NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION
   - 282 – THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERING A BILL.

Findings

1. The respondent's position statement asserts that "Carrier has accepted as compensable an injury limited to a left knee sprain or strain and a lumbar strain. Accordingly, if the knee condition treated surgically was unrelated to the compensable injury, reimbursement would not be owed... Again, to date, the Claimant has either acquiesced in the Carrier's position or has failed/refused to file a request for dispute resolution of the extent issue." In support of this position, the respondent provided a copy of a PLN-11 which states, in pertinent part that "Carrier denies that the claimant's injury extends to the claimant's recent diagnosis of psychological/symptom magnification issues." Review of the submitted medical bill finds no diagnosis codes listed that are related to psychological/symptom magnification issues. The respondent did not file a PLN-11 indicating that a dispute exists as to any of the listed diagnosis codes for which the injured worker was treated. The respondent did not indicate on the DWC-60 Part III (respondent information) that there is an unresolved dispute regarding liability, compensability or extent of injury related to this medical dispute. The respondent did not submit an explanation of benefits indicating that a dispute exists as to compensability, extent of injury, or liability for the services in dispute. The explanation of benefits detailing the carrier response to the request for reconsideration does not maintain or indicate that a dispute as to compensability, extent of injury, or liability exists with regard to the disputed services. Further, per 28 Texas Administrative Code §133.307(d)(2)(B) "The response shall address only those denial reasons presented to the requestor prior to the date the request for MDR was filed with the Division and the other party. Any new denial reasons or defenses raised shall not be considered in the review." Accordingly, any new denial reasons or defenses raised by the respondent will not be considered in this review. Review of the submitted information finds that the insurance carrier's denial codes are not supported. Further, the respondent has not supported that a dispute as to compensability, extent of injury, or liability exists with regard to the diagnosis codes for which the injured worker was treated for the services in dispute. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
2. 28 Texas Administrative Code §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position

statement of the disputed issue(s) that shall include "how the submitted documentation supports the requestor position for each disputed fee issue." Review of the requestor's documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iv).

3. 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:
   - The requestor's position statement asserts that "Our company has purchased national hospital payment data from 'Cleverly and Associates': a nationally recognized company. This data is known as Med Par Data**,** based on this data, we have established a PAF or payment adjustment factor to be applied to our hospital specific Medicare OPPS reimbursement rate and determined this to be our interpretation and application of fair and reasonable… The PAF we have established is 213.83% of our hospital specific Medicare Outpatient Prospective Payment System reimbursement rate; this rate is consistent with most commercial and private payers with in this region."
   - Review of the submitted information finds that the data does not support the reimbursement amount sought by the requestor.
   - The requestor did not explain how it determined that a payment adjustment factor of 213.83% of the hospital specific Medicare Outpatient Prospective Payment System reimbursement rate would result in a fair and reasonable reimbursement for the services in dispute.
   - The requestor did not submit documentation to support that a payment adjustment factor of 213.83% of the hospital specific Medicare Outpatient Prospective Payment System reimbursement rate would result in a fair and reasonable reimbursement for the services in dispute.
   - The requestor did not submit documentation to support that this rate is consistent with most commercial and private payers in the region.
   - The requestor has not supported that payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.

   The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amounts sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

Authorized Signature

	Grayson Richardson	March 30, 2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it 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.