



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

SOUTHWEST GENERAL HOSPITAL

Respondent Name

AMERICAN HOME ASSURANCE CO

MFDR Tracking Number

M4-09-3210-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

October 24, 2006

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: Apparently the Payor improperly applied the ASC Fee Guideline or utilized some other non-applicable fee schedule to significantly underpay this claim. This patient was employed and covered under their company sponsored WC insurance plan. The patient's WC group plan is much more comparable to an employer sponsored health plan than a government sponsored individual policy such as Medicare and Medicaid which typically cover the unemployed.

It is neither "fair" nor "reasonable" for the payor to apply a non-applicable Medicare fee schedule to this claim. It would be significantly more "fair and reasonable" for the Hospital to be reimbursed based on the average commercial (non-governmental) managed care contract reimbursement rate.

An audit of all of the Hospital's non-governmental managed care contract reimbursement rates has confirmed the average reimbursement for this same outpatient surgical procedure is 65% of the Hospital's billed charges. Based on compliance with Rule §134.401 and an impartial and just "fair and reasonable" allowance, the Hospital should be paid nothing less than 65% for this claim. The above \$1,162.36 constitutes the difference between the Payor's initial underpayment and the Hospital's average reimbursement rate for this procedure as cited above."

Amount in Dispute: \$1,162.36

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "I am filing a response on the above-referenced Carrier in response to the Requestor's dispute for fee reimbursement for date of service 11/4/04. Please note, Carrier did not receive notice of this dispute until July 9, 2015; therefore, this response is timely. I have attached the medical records and bills that accompanied this date of service.

Provider assert in its October 20, 2006 letter that "the patient received outpatient surgical care at Southwest General Hospital." Provider asserts that former rule 134.401 applies to this case. 134.401 stated as follows: "(a) Applicability ... (4) Ambulatory/outpatient surgical care is not covered by this guideline and shall be reimbursed at a fair and reasonable rate ..." Based on the plain language Rule 134.401 provides rational for additional reimbursement does not apply. Given the bills in dispute, Carrier properly notes on the DWC 62 that no "no maximum allowable defined by fee guideline. Reimbursement and based on insurance carrier fair and reasonable " and "allowance for this procedure was made at the 'fair and reasonable' amount for this geographic area." The amount reimbursed was correct per Ingenix Outpatient Facility Database, current for the date of service"

Response Submitted by: Hoffman Kelley

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 04, 2005	Outpatient Hospital Service	\$1,162.36	\$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 sets forth general provisions related to use of the fee guidelines.
3. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
4. This request for medical fee dispute resolution was received by the Division on October 24, 2006.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 360 – Allowance for this procedure was made at the “fair and reasonable” amount for this geographical area
 - 217 – The value of this procedure is included in the value of another procedure performed on this date
 - 426 – Reimbursed to fair and reasonable
 - 18 – Duplicate claim/service
 - 247 – A payment or denial has already been recommended for this service

Findings

1. Review of the submitted explanations of benefits finds indication that the insurance carrier reduced payment in part due to a contractual discount based on participation in a preferred provider organization (PPO) network. No documentation was presented to support that the health care provider was contracted with the alleged network at the time of service. Nor was any documentation presented to support a contract between the insurance carrier and the alleged network. Further, no documentation was presented to support that the insurance carrier had been granted access to the provider's contracted fee agreement with the alleged network on the disputed date of service. Review of the submitted information finds no documentation to support that the disputed services are subject to a contractual fee arrangement between the parties to this dispute. This payment reduction is not supported. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to services with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.1(c), effective May 16, 2002, 27 *Texas Register* 4047, which requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."
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. Former 28 Texas Administrative Code §133.307(g)(3)(B), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to send “a copy of any pertinent medical records.” Review of the submitted documentation finds that the requestor has not provided copies of any medical records to support the services in dispute. Although the requestor did submit a copy of the operative report, the requestor did not submit a copy of the anesthesia record, post-operative care record, or other pertinent medical records sufficient to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(g)(3)(B).
5. Former 28 Texas Administrative Code §133.307(g)(3)(C)(i), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to send a statement of the disputed issue(s) that shall include “a description of the healthcare for which payment is in dispute.” Review of the submitted documentation finds that the requestor did not provide a description of the healthcare for which payment is in dispute. The Division concludes that the requestor has not met the requirements of §133.307(g)(3)(C)(i).

6. Former 28 Texas Administrative Code §133.307(g)(3)(C)(ii), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to send a statement of the disputed issue(s) that shall include "the requestor's reasoning for why the disputed fees should be paid." Review of the submitted documentation finds no explanation of the requestor's reasoning for why the disputed fees should be paid. The Division concludes that the requestor has not met the requirements of §133.307(g)(3)(C)(ii).
7. Former 28 Texas Administrative Code §133.307(g)(3)(C)(iii), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to send a statement of the disputed issue(s) that shall include "how the Texas Labor Code and commission rules, and fee guidelines, impact the disputed fee issues." Review of the submitted documentation finds that the requestor did not discuss how the Texas Labor Code and Division rules impact the disputed fee issues. The Division concludes that the requestor has not met the requirements of §133.307(g)(3)(C)(iii).
8. Former 28 Texas Administrative Code §133.307(g)(3)(C)(iv), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to send a 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(g)(3)(C)(iv).
9. Former 28 Texas Administrative Code §133.307(g)(3)(D), effective January 1, 2003, 27 *Texas Register* 12282, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that:
 - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
 - The requestor's position statement / rationale for increased reimbursement from the *Table of Disputed Services* asserts that "Texas Administrative Code, Rule §134.401 O/P surgical @ fair & reasonable rates."
 - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
 - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation 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. After thorough review and consideration of the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The requestor has failed to establish 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 entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	7/24/2015 Date
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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.