Texas Department of Insurance, Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor's Name and Address:	MFDR Tracking #:	M4-10-2176-01
4600 TEXAS GROUP 2777 ALLEN PARKWAY STE 460 HOUSTON TX 77019	DWC C	
	Injured	
Respondent Name and Box #:	Date of	
LIBERTY MUTUAL FIRE INSURANCE Rep Box #: 28	Employ	
	Insuran	

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DO

The Requestors' position summary taken from the subclaimant notice dated August 28, 2007: "...The Subclaimant, Community First Health Plan, has hereby requested reimbursement of the compensable medical costs of $664.90 related to the above claim and paid by the subclaimant...."

Principle Documentation:

1. DWC 060
2. Affidavit

Total Amount Sought $664.90

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondents' position summary taken from the carrier's response to the medical dispute dated December 29, 2009: "...4600 Texas Group is not the health care insurer, neither are they a provider of medical services and as such have not provided compensation and do not qualify for reimbursement under 409.009...."

Principle Documentation:

1. DWC 060 Response

PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Calculations	Amount in Dispute	Amount Due
Unspecified on the Table of Disputed Services	Unspecified on the Table of Disputed Services	N/A	$664.90	$0
			Total Due:	$0

PART V: FINDINGS AND DECISION

This Medical Fee Dispute is decided pursuant to Tex. Lab. Code Ann. § 413.031,and Tex. Lab. Code Ann. §§ 409.009, and 409.0091 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted Rules of the Texas Department of Insurance, Division of Workers' Compensation.

[redacted]

Background

1. Tex. Lab. Code Ann. § 409.0091 applies only to dates of injury on or after September 1, 2007 **except** as provided by Sec. 409.0091(s).
2. The services in dispute relate to an injury that occurred on 08/01/04.
3. Tex. Lab. Code Ann. § 409.0091(s) applies for the date of injury 08/01/04.
4. Sec. 409.0091(s) states that if information was provided to a health care insurer before January 1, 2007 under Section 402.084(c-3), the health care insurer may file for reimbursement from the workers' compensation carrier not later than March 1, 2008; and may file a subclaim with the Division if the request for reimbursement has been presented and denied not later than March 1, 2008.
5. Tex. Lab. Code Ann. § 409.0091(f) relates to the form and manner in which the health care insurer shall file for reimbursement from the workers' compensation insurance carrier.
6. The provisions of Tex. Lab. Code Ann. §§ 409.009, and 409.0091 apply to dispute resolution.
7. 28 Tex. Admin. Code §§ 140.6, 140.8 and 28 Tex. Admin. Code §133.307 set out the procedures for health care insurers to pursue medical fee dispute resolution.

Issues

In reference to the health care insurer's / subclaimant's request for medical fee dispute resolution, the Division will address the following:

- Did the requestor file for dispute resolution in accordance with Tex. Lab. Code Ann. §§ 409.009, 409.0091, and 28 Tex. Admin. Code §§ 140.6, 140.8?
- Is this request eligible for medical fee dispute resolution under 28 Tex. Admin. Code § 133.307?

In reference to the health care insurer's / subclaimant's request for reimbursement from the workers' compensation insurance carrier, the Division will address the following:

- Was the requestor eligible to file for reimbursement from the workers' compensation insurance carrier under Tex. Lab. Code Ann. § 409.0091?
- Did the requestor file for reimbursement from the workers' compensation insurance carrier in a timely manner as defined by Tex. Lab. Code Ann. § 409.0091(s)?
- Did the requestor file for reimbursement from the workers' compensation insurance carrier in the form and manner prescribed by Tex. Lab. Code Ann. § 409.0091(f)?

Findings

1. The services in dispute relate to an injury that occurred on 08/01/04. A data match under Tex. Lab. Code Ann. § 402.084(c-3) is required by Tex. Lab. Code Ann. § 409.0091(s). The requestor provided a document titled "Affidavit of Caldwell Fletcher" which indicates that a data match occurred in late January 2007. On April 28, 2009, MFDR requested the original data file sent from the Division with the data matches so that we [MFDR] may verify the information. No documentation was provided to sufficiently support that a data match occurred in late January 2007 as stated in the affidavit. Therefore, the requestor is not eligible to file for reimbursement under Tex. Lab. Code Ann. § 409.0091.

2. Pursuant to Tex. Lab. Code Ann. § 409.0091(s), a data match had to have occurred before January 1, 2007 in order for the health care insurer (the requestor in this dispute) to file for reimbursement from the workers' compensation insurance carrier. The requestor's alleged data match date occurred in late January 2007 and does not meet the requirements of Tex. Lab. Code Ann. § 409.0091(s). No documentation was found to support that a data match occurred before January 1st, 2007; therefore, the requestor was not eligible to file for reimbursement from the workers' compensation insurance carrier.

3. The requestor submitted insufficient documentation to support that a request for reimbursement was filed before March 1, 2008, therefore, the requestor was not eligible to file for reimbursement from the workers' compensation carrier because the data match requirements in Sec. 409.0091 (s) (addressed in 1 and 2 above) were not met.

4. Tex. Lab. Code Ann. § 409.0091(f) states in pertinent part "...the health care insurer shall provide, with any reimbursement request, the tax identification number of the health care insurer and the following to the workers' compensation insurance carrier, in a form prescribed by the Division: (1) information identifying the workers' compensation case, including: ... and (2) information describing the health care paid by the health care insurer, including:..." The Division prescribed DWC Form-026 to meet the requirements under Tex. Lab. Code Ann. § 409.0091(f). No documentation was found to sufficiently support that the requestor included DWC Form-026 with the request for reimbursement. The dates of service and the pertinent description of the services (e.g. ICD-9, CPT, HCPCS, NDC or revenue code), among other information required by that form, were not provided. Therefore, the requestor was not eligible for reimbursement because the request was not filed in the form and manner prescribed by the Division.

5. Furthermore, Tex. Lab. Code Ann. § 409.009 states in pertinent part, "A person may file a written claim with the division as a subclaimant if the person has: 1) provided compensation, including health care provided by a health care insurer, directly or indirectly, to or for an employee or legal beneficiary; and (2) sought and been refused reimbursement from the insurance carrier. 28 Tex. Admin. Code §140.6(d) states in pertinent part, "Subclaimants, other than subclaimants described in §409.0091, must pursue a claim for reimbursement of medical benefits and participate in medical dispute resolution in the same manner as an injured employee or in the same manner as a health care provider, as appropriate, under Chapters 133 and 134 of this title (relating to General Medical Provisions and Benefits--Guidelines for Medical Services, Charges, and Payments); and 2) A health care insurer subclaimant must submit a reimbursement request in the form/format and manner prescribed by the Division and must contain all the required elements listed on the form. 28 TAC Section 133.307 (c)(1)(A), requires filing not later than one year after the date(s) of service in dispute and (c)(2)(c) requires a form DWC060 table listing the specific dispute health care and charges in the form and manner prescribed by the Division. The disputed dates of service, the pertinent description of services, ICD-9, HCPCs, CPT, NDC or revenue codes and other information required by the form were not included in the DWC060 request. In addition, the position summary, EOBs, medical bills, medical documentation were absent in the dispute DWC060 package. The request for dispute resolution was filed later than the one year filing deadline and the documentation was insufficient to show compliance with 28 Tex. Admin. Code §140.6(d), Tex. Lab. Code Ann. § 409.009 and 28 TAC Section 133.307.

Conclusion

For each of the reasons stated, the Division finds that the requestor has failed to establish that reimbursement in the amount of $664.90 is due. As a result, the amount ordered is $0.00.

PART VI: ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. §413.031, the Division has determined that the Requestor is entitled to $0.00 reimbursement.

[redacted] Authorized Signature

[redacted] Medical Fee Dispute Resolution Auditor

April 8, 2010 Date

PART VII: 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 **20** (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. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed $2,000. If the total amount sought exceeds $2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

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

[redacted] [redacted]