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 Name and Address:

STEVEN S. CALLAHAN, PH.D. & ASSOC., P.C.
25810 OAK RIDGE DRIVE
THE WOODLANDS, TEXAS 77380

MFDR Tracking #: M4-10-4089-01

DWC Cla

Injured E

Date of Ir

Employer

Insurance

Respondent Name and Box #:

ZURICH AMERICAN INSURANCE CO
Box #: 19

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Requestor's Position Summary: "The Requestor would note that the Medical Fee Dispute Resolution has for sometime held that the date printed in Block 31 of a CMS-1500 can be taken as a reliable submission date based, or a *de facto* postmark based upon the DWC-67 instructions."

Principal Documentation:

1. DWC 60 Package
2. Total Amount Sought – $340.00

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Respondent's Position Summary: "The EOBs raise the issue of timely filing....HCPs who fail to meet this deadline forfeit their right to reimbursement."

Principal Documentation:

1. Response Package

PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
05/21/2009	96150 (4 units on CMS-1500)	Not Applicable	$200.00	$0.00
05/28/2009	90882	Not Applicable	$140.00	$0.00
			Total Due:	$0.00

PART V: FINDINGS AND DECISION

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

Background

1. Tex. Lab. Code, §408.027(a), titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2007, sets out the requirement for timely submission of a medical bill.
2. Division rule at 28 Tex. Admin. Code §133.20(b), titled *Medical Bill Submission by Health Care Provider*, effective January 29, 2009, sets out the procedure for timely submission of a medical bill."
3. Division rule at 28 Tex. Admin. Code § 102.4(h), titled *General Rules for Non-Commission Communication*, effective May 1, 2005 sets out the guidelines for non-division communication such as those between the provider of health care services and the workers' compensation insurance carrier.

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

   Explanation of benefits dated 10/21/2009 for DOS 05/21/09 and 10/22/2009 for DOS 05/28/09

   - 200 PER 134.801, A MEDICAL BILL SHALL NOT BE SUBMITTED LATER THAN THE 1ST DAY OF THE 11TH MONTH (<8/01/05) OR 95 DAYS (>09/01/05 AFTER DOS.)
   - 29 THE TIME LIMIT FOR FILING HAS EXPIRED.

Issues

1. Did the Requestor submit documentation to support the disputed bills were submitted timely in accordance with Tex. Lab. Code, §408.027, Division rule at 28 Tex. Admin. Code §133.20(b) and Division rule at 28 Tex. Admin. Code §102.4(h).
2. Is the Requestor entitled to additional reimbursement?

Findings

1. Pursuant to Tex. Lab. Code, §408.027(a), titled PAYMENT OF HEALTH CARE PROVIDER, effective September 1, 2007, states that "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." Additionally, Division rule at 28 Tex. Admin. Code §133.20(b), titled Medical Bill Submission by Health Care Provider, effective January 29, 2009, states "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."
2. Division rule at 28 TAC § 102.4(h), titled General Rules for Non-Commission Communication, effective May 1, 2005 states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

   (1) the date received, if sent by fax, personal delivery or electronic transmission or,

   (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."
3. Review of the documentation provided finds that the Requestor did not sufficiently support that the medical bill for service date 05/21/2009 and 05/28/2009 was sent, as defined by 28 Tex. Admin. Code §102.4(h), not later than 95-days after the date of service. The division finds that the Requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute.

Conclusion

For the reasons stated above, the division finds that the Requestor has failed to establish that reimbursement 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 §413.031, the Division has determined that the Requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature	Gregory S. Fournerat Medical Fee Dispute Resolution Officer	09/16/2010 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 at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 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 §413.031.
Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.