



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

OKLAHOMA PHYSICAL THERAPY

Respondent Name

NEW HAMPSHIRE INSURANCE COMPANY

MFDR Tracking Number

M4-10-4582-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 28, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "I am attaching PROOF OF TIMELY FILE. As you can tell from my notes claims have been submitted to Corvel THREE times. Once by mail TWICE by fax and they claim they do not have them."

Amount in Dispute: \$1,139.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "In summary, the provider did not document acceptable proof of filing the bill in a timely manner. Therefore, no reimbursement is recommended."

Response Submitted by: CorVel Corporation, 15301 Dallas Pkwy, Ste 300, Addison, Texas 75001

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 12, 2009 to August 18, 2009	Physical Therapy Services	\$1,139.00	\$417.66

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §102.4 establishes general rules for communications between the parties.
- 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
- 28 Texas Administrative Code §133.210 sets out general provisions related to medical documentation.
- 28 Texas Administrative Code §133.240 sets out provisions regarding medical payments and denials.
- 28 Texas Administrative Code §134.203 sets out the reimbursement for professional medical services.
- 28 Texas Administrative Code §134.1 sets forth general provisions related to medical reimbursement.
- Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
- Neither party submitted explanations of benefits detailing carrier payment or denial of the disputed services.

Issues

1. Under what authority is the request for medical fee dispute resolution considered?
2. Did the respondent submit documentation to support the stated reasons for denial of payment?
3. Did the insurance carrier meet the requirements of 28 Texas Administrative Code §133.240?
4. Did the health care provider timely submit the medical bills to the insurance carrier?
5. What is the recommended payment amount for the services in dispute?
6. Is the requestor entitled to reimbursement?

Findings

1. The requestor is a health care provider that rendered disputed services in the state of Oklahoma to an injured employee with an existing Texas Workers' Compensation claim. The health care provider has requested medical fee dispute resolution under 28 Texas Administrative Code §133.307. Because the requestor has sought the administrative remedy outlined in 28 Texas Administrative Code §133.307 for resolution of the matter of the request for additional payment, the Division concludes that it has jurisdiction to decide the issues in this dispute pursuant to the Texas Workers' Compensation Act and applicable rules.
2. The respondent's position statement asserts "The services in dispute were denied as 'Time Limit for Filing Claim/Bill has expired.'" The Division will therefore take notice that the insurance carrier acknowledges receiving the bill. Per 28 Texas Administrative Code §133.307(d)(2), effective May 25, 2008, 33 *Texas Register* 3954, "Carrier Response. Upon receipt of the request, the carrier shall complete the required sections of the request form and provide any missing information not provided by the requestor and known to the carrier." Additionally, per §133.307(d)(2)(A)(i), the insurance carrier's response shall include "all initial and reconsideration EOBs, in a paper explanation of benefits format using an appropriate DWC approved paper billing format, related to the health care in dispute not submitted by the requestor or a statement certifying that the carrier did not receive the provider's disputed billing prior to the dispute request." The respondent did not submit any EOBs for the disputed services, or certify that the carrier did not receive the provider's disputed billing prior to the dispute request. The insurance carrier has not submitted documentation to support the alleged denial reason.
3. Per 28 Texas Administrative Code §133.240(e), effective May 2, 2006, 31 *Texas Register* 3544, "The insurance carrier shall send the explanation of benefits in the form and manner prescribed by the Division and indicate any interest amount paid, and the number of days on which interest was calculated. The explanation of benefits shall be sent to: (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill." Additionally, per §133.240(a), "An insurance carrier shall take final action after conducting bill review on a complete medical bill . . . not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation." The insurance carrier did not submit copies of explanations of benefits or documentation to support that it took final action no later than the 45th day after the date the insurance carrier received a complete medical bill. The respondent has not supported that it met Division requirements related to medical payments and denials as set forth in §133.240.
4. The requestor asserts "I am attaching PROOF OF TIMELY FILE." 28 Texas Administrative Code §133.20(b), effective January 29, 2009, 34 *Texas Register* 430, requires, in pertinent part, that "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." The disputed dates of service were from August 12, 2009 to August 18, 2009. The 95th day after the first disputed date of service is November 20, 2009. Review of the submitted documentation finds convincing evidence that the requestor submitted medical bills for the disputed services by facsimile transmission to the insurance carrier or insurance carrier's agent on November 17, 2009. This is before the 95th day following the date the services were provided. 28 Texas Administrative Code §133.210(e), effective May 2, 2006, 31 *Texas Register* 3544, states that "It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. The Division considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other."
28 Texas Administrative Code §102.4(p), effective April 28, 2005, 30 *Texas Register* 2396, states, in pertinent part, that "For purposes of determining the date of receipt for non-commission written communications, unless the great weight of evidence indicates otherwise, the Commission shall deem the received date to be . . . the date faxed or electronically transmitted."
Based on the preponderance of evidence, the Division finds that the bills were faxed on November 17, 2009 to the insurance carrier or the insurance carrier's agent. As the great weight of evidence does not indicate otherwise, the Division deems that the medical bills were received by the insurance carrier November 17, 2009. This date is before the 95th day following the date the services were provided. The Division finds that the health care provider has timely submitted the medical bills to the insurance carrier. The insurance carrier's denial reasons are not supported. These disputed services will therefore be considered for reimbursement according to applicable Division rules and fee guidelines.

5. This dispute relates to professional medical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.203(c), which requires that "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83 . . . (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year." The Division's physical medicine conversion factor for calendar year 2009 is \$53.68. Reimbursement is calculated as follows:
- Procedure code 97110, service date August 12, 2009, performed in Oklahoma City, has a Medicare payment rate of \$26.19. This amount divided by the Medicare conversion factor of 36.0666 is 0.72615661. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$38.98. This amount is recommended.
 - Procedure code 97140, service date August 12, 2009, performed in Oklahoma City, has a Medicare payment rate of \$24.32. This amount divided by the Medicare conversion factor of 36.0666 is 0.674308086. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$36.20. This amount is recommended.
 - Procedure code 97110, service date August 14, 2009, performed in Oklahoma City, has a Medicare payment rate of \$26.19. This amount divided by the Medicare conversion factor of 36.0666 is 0.72615661. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$38.98. This amount is recommended.
 - Procedure code 97140, service date August 14, 2009, performed in Oklahoma City, has a Medicare payment rate of \$24.32. This amount divided by the Medicare conversion factor of 36.0666 is 0.674308086. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$36.20. This amount is recommended.
 - Procedure code 97110, service date August 17, 2009, performed in Oklahoma City, has a Medicare payment rate of \$26.19. This amount divided by the Medicare conversion factor of 36.0666 is 0.72615661. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$38.98. This amount multiplied by 3 units is \$116.94. This amount is recommended.
 - Procedure code 97140, service date August 17, 2009, performed in Oklahoma City, has a Medicare payment rate of \$24.32. This amount divided by the Medicare conversion factor of 36.0666 is 0.674308086. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$36.20. This amount is recommended.
 - Procedure code 97110, service date August 18, 2009, performed in Oklahoma City, has a Medicare payment rate of \$26.19. This amount divided by the Medicare conversion factor of 36.0666 is 0.72615661. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$38.98. This amount multiplied by 2 units is \$77.96. This amount is recommended.
 - Procedure code 97140, service date August 18, 2009, performed in Oklahoma City, has a Medicare payment rate of \$24.32. This amount divided by the Medicare conversion factor of 36.0666 is 0.674308086. This amount multiplied by the Division's 2009 conversion factor of \$53.68 results in a MAR of \$36.20. This amount is recommended.
 - Procedure code 97014, dates of service August 12, 14, 17, and 18, 2009, represents a service for which neither Medicare, nor the Division, has assigned a relative value unit or payment amount. 28 Texas Administrative Code §134.203(f) requires that "For products and services for which no relative value unit or payment has been assigned by Medicare, Texas Medicaid as set forth in §134.203(d) . . . of this title, or the Division, reimbursement shall be provided in accordance with §134.1 of this title (relating to Medical Reimbursement)." 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 *Texas Register* 626, requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement . . . shall be made in accordance with subsection 134.1(f), which states that "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available." Former 28 Texas Administrative Code §133.307(c)(2)(G), effective May 25, 2008, 33 *Texas Register* 3954, 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." No documentation was found to discuss, demonstrate or justify that the amount sought for procedure code 97014 is a fair and reasonable rate of reimbursement. Reimbursement cannot be recommended.

- Procedure code 97010, dates of service August 12, 14, 17, and 18, 2009, represents a service for which neither Medicare, nor the Division, has assigned a relative value unit or payment amount. 28 Texas Administrative Code §134.203(f) requires that "For products and services for which no relative value unit or payment has been assigned by Medicare, Texas Medicaid as set forth in §134.203(d) . . . of this title, or the Division, reimbursement shall be provided in accordance with §134.1 of this title (relating to Medical Reimbursement)." 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 *Texas Register* 626, requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement . . . shall be made in accordance with subsection 134.1(f), which states that "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available." Former 28 Texas Administrative Code §133.307(c)(2)(G), effective May 25, 2008, 33 *Texas Register* 3954, 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." No documentation was found to discuss, demonstrate or justify that the amount sought for procedure code 97014 is a fair and reasonable rate of reimbursement. Reimbursement cannot be recommended.

6. The total recommended payment for the services in dispute is \$417.66. This amount less the amount previously paid by the insurance carrier of \$0.00 leaves an amount due to the requestor of \$417.66. This amount is recommended.

Conclusion

The requestor has the burden of proof in this dispute. The standard of proof required is by a preponderance of the evidence. This review is based on the information submitted for consideration by the parties in this dispute. After thorough review and consideration of the submitted evidence, the Division finds that the requestor has established by a preponderance of the evidence that additional reimbursement is due. As a result, the amount ordered is \$417.66.

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 \$417.66 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

	Grayson Richardson	August 29, 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.