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 and Address

PINE CREEK MEDICAL CENTER
9032 HARRY HINES BLVD
DALLAS TX 75235-1720

Respondent Name
NEW HAMPSHIRE INSURANCE COMPANY

Carrier's Austin Representative Box
Box Number 19

MFDR Tracking Number
M4-11-2471-01

MFDR Date Received
March 11, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The disputed fees should be paid at 200% of OPPS charges in accordance with TDI-DWC §134.403. Hospital Facility Fee Guideline – Outpatient as well as Medicare Policies and Guidelines."

Amount in Dispute: $2,238.98

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier submits that all fee reductions were made in accordance with the applicable fee guidelines. . . . In this case, the [alleged preferred provider organization network] PPO contract exists between [alleged network owner] and Pine Creek Medical Center."

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

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
December 10, 2010	Outpatient Hospital Services	$2,238.98	$2,238.98

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 §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §133.4 requires written notification to health care providers regarding contractual agreements for informal and voluntary networks.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - B15 – Procedure/Service is not paid separately
   - RN – Not paid under OPPS: services included in APC rate
   - 45 – Contract/Legislated Fee Arrangement Exceeded
   - RD7 – Multiple Procedure/1st Procedure
   - RT – Right Side
   - 59 – Allowance based on Multiple Surgery Guidelines
   - RD8 – Multiple Procedure/2nd Procedure (50%)

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced or denied disputed services with reason code 45 – "Contract/Legislated Fee Arrangement Exceeded." Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on February 21, 2013, the Division requested the respondent to provide a copy of the referenced contract between the insurance carrier and the alleged network, as well as a copy of the contract between the alleged network and the health care provider. Additionally, the Division requested the respondent to provided documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier, New Hampshire Insurance Company, had been granted access to the contracted fee arrangement between the health care provider and the alleged network. While the respondent did submit copies of the contract between the insurance carrier and the network as well as the network and the health care provider, review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required, that the insurance carrier, New Hampshire Insurance Company, had been granted access to the contracted fee arrangement between the health care provider and the alleged network.

   - A purported notice letter was found with the submitted materials.
   - No documentation was found to support that the notice letter had been sent to the health care provider.
   - No notice was found including the name, physical address, and telephone number of any person or insurance carrier—and specifically the respondent, New Hampshire Insurance Company—given access to the network's fee arrangement with the health care provider as required by §133.4(d)(2)(A).
   - No notice was found of the start date and any end date during which the insurance carrier had been given access to the contracted fee arrangement as required by §133.4(d)(2)(B).
   - No documentation was found to establish time of notification in accordance with §133.4(f).

   As the respondent did not provide notice that the insurance carrier, New Hampshire Insurance Company, had been granted access to the contracted fee arrangement between the health care provider and the alleged network, the Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. The Division therefore determines that the health care services were not provided pursuant to a private contractual fee arrangement between the parties to this dispute. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.

2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.

3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
   - Procedure code 29879 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of $2,016.77. This amount multiplied by 60% yields an unadjusted labor-related amount of $1,210.06. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of $1,175.69. The non-labor related portion is 40% of the APC rate or $806.71. The sum of the labor and non-labor related amounts is $1,982.40. The cost of these services does not exceed the annual fixed-dollar threshold of $2,175. The outlier payment amount is $0. The total Medicare facility specific reimbursement amount for this line is $1,982.40. This amount multiplied by 200% yields a MAR of $3,964.80.
   - Procedure code 29881 has a status indicator of T, which denotes a procedure subject to multiple-procedure discounting. This procedure is paid at 50%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of $2,016.77. This amount multiplied by 60% yields an unadjusted labor-related amount of $1,210.06. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of $1,175.69. The non-labor related portion is 40% of the APC rate or $806.71. The sum of the labor and non-labor related amounts is $1,982.40. The cost of these services does not exceed the annual fixed-dollar threshold of $2,175. The outlier payment amount is $0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is $991.20. This amount multiplied by 200% yields a MAR of $1,982.40.
4. The total allowable reimbursement for the services in dispute is $5,947.20. The amount previously paid by the insurance carrier is $3,699.13. The requestor is seeking additional reimbursement in the amount of $2,238.98. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $2,238.98.

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 $2,238.98 reimbursement for the disputed services.

Authorized Signature

Signature	[redacted] Medical Fee Dispute Resolution Officer	March 21, 2014 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.