



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

DEPARTMENT OF VETERANS AFFAIRS

Respondent Name

FIDELITY & GUARANTY INSURANCE UNDERWRITERS

MFDR Tracking Number

M4-11-4833-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

July 25, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "enclosed you will find a copy of our bills, medical records and the denial received from CBCS, Integrated Claims Solutions."

Amount in Dispute: \$2,104.62

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Requestor filing is untimely as to service dates June 10, 2010 to July 8, 2010. Those service dates should be dismissed from this review. . . . Further, with the exceptions of the charges on July 9, 2010 and August 3, 2010, Carrier had previously issued reimbursement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: June 10, 2010 to September 10, 2010; Procedure Codes 71100, 73000, 99202, 99212, 99213, and J8499; \$2,104.62; \$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. Neither party to this dispute submitted copies of explanations of benefits detailing the insurance carrier's reasons regarding reduction or denial for the disputed services.

## Issues

1. Under what authority is the request for medical fee dispute resolution considered?
2. Did the requestor waive the right to medical fee dispute resolution?
3. Did the requestor submit explanations of benefits for the disputed services?
4. Did the requestor submit a position statement of the disputed issues including how the submitted documentation supports the requestor position for each disputed fee issue?
5. Is additional reimbursement due?

## Findings

1. The requestor is a health care provider that rendered disputed services in the state of Texas to an injured employee with an existing Texas Workers' Compensation claim. The health care provider was dissatisfied with the insurance carrier's final action. 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 requestor is required to file this medical fee dispute in the form and manner outlined in 28 Texas Administrative Code §133.307.
2. 28 Texas Administrative Code §133.307(c)(1) states:

Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request.

- (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The date of the services in dispute is June 10, 2010 to September 10, 2010. The request for medical fee dispute resolution was received in the Medical Dispute Resolution (MDR) Section on July 25, 2011. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MDR Section with respect to dates of service June 10, 2010 to July 9, 2010; consequently, the requestor has waived the right to medical fee dispute resolution for services. Accordingly, dates of service June 10, 2010 to July 9, 2010 will not be considered in this review.

The request for dispute resolution of services rendered from dates of service August 3 2010 through September 10, 2010, however, were timely filed with the Division's MDR section. These services will therefore be considered for review per applicable Division rules and fee guidelines.

3. Former 28 Texas Administrative Code §133.307(c)(2)(B), effective May 25, 2008, 33 Texas Register 3954, requires that the request shall include "a copy of each explanation of benefits (EOB) . . . relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB."

Review of the submitted documentation finds that the request does not include copies of any EOBs for the disputed services. Moreover, the request does not include a copy of the EOB detailing the insurance carrier's response to the request for reconsideration for any of the disputed services. Nor has the requestor provided evidence of carrier receipt of the request for any EOB(s). The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(B).

4. Former 28 Texas Administrative Code §133.307(c)(2)(F)(iv), effective May 25, 2008, 33 Texas Register 3954, requires that the request shall include a position statement of the disputed issues including "how the submitted documentation supports the requestor position for each disputed fee issue." Review of the submitted 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(c)(2)(F)(iv).

5. Per former 28 Texas Administrative Code §133.307(c), "Requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division." Per §133.307(c)(2), "The provider shall complete the required sections of the request in the form and manner prescribed by the Division. . . .The request shall include" documentation as further specified by the rule. Review of the submitted information finds that the requestor has not filed the request in the form and manner prescribed by the Division. The requestor has failed to provide sufficient documentation to support its position that additional reimbursement is due. Consequently, additional reimbursement is not recommended.

**Conclusion**

The findings and decision in this dispute are based on the evidence presented by the requestor and the respondent. Even though all the evidence was not discussed, it was considered.

For the reasons stated above, the Division finds that 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 disputed services.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Grayson Richardson  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
July 29, 2015  
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 MFDR 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 this *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.**