



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

Texas Orthopedic Hospital

Respondent Name

Ei Dupont De Nemours & Co Inc

MFDR Tracking Number

M4-12-0308-01

Carrier's Austin Representative

Box Number 22

MFDR Date Received

September 28, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...it is the position of the Provider that all charges relating to the admission of this claimant are due and payable and not subject to the improper reductions taken by the carrier in this case."

Amount in Dispute: \$8,342.04

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor billed \$113,116 for the services rendered, and maintains it is entitled to reimbursement in the amount of \$29,293.20. The carrier has already reimbursed the requestor \$20,951.16... and asserts that this amount is consistent with the applicable fee guidelines."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 30, 2010 through October 2, 2010	Inpatient Hospital Surgical Services	\$8,342.04	\$7,659.15

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 a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - W1 – Workers Compensation State Fee Schedule Adjustment
 - 193 – Original payment decision is being maintained
 - 863 – Procedure/Service code/diagnosis code/items billed. Not documented in report
 - 975-410 – Copy of provider's invoice used to determine reimbursable amount
 - 885 – Review of this code has resulted in an adjusted reimbursement
 - 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement

Issues

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. 28 Texas Administrative Code §134.404(e) states that: “Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
 - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
 - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables.”

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. §134.404(f) states that “The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
 - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
 - (A) 143 percent; unless
 - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent.”

Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

3. §134.404(g) states, in pertinent part, that “(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.
 - (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	Cost Invoice Description	# Units & Cost Per Unit	Cost Invoice Amount	<i>Per item</i> Add-on (cost +10% or \$1,000 whichever is less).
278	Spec IMP Bone OP 1 BMP	OP-1 IMPLANT	2 at \$5,000.00 ea	\$10,000.00	\$11,000.00
278	5x25 Hex Scr 71642225	71642225 Trad Screw	1 @ \$121.80	\$121.80	\$133.98
278	5x30 Hex Scr 71642230	71642230 Trad Screw	1 @ \$121.80 ea	\$121.80	\$133.98
278	5x40 Hex Scr 71642240	71642240 Trad Screw	1 @ \$121.80 ea	\$121.80	\$133.98
278	5x65 Hex Scr 71642265	71642265 Trad Screw	1 @ \$121.80 ea	\$121.80	\$133.98
278	5x80 Hex Screw	71642280 Trad	1 @	\$121.80	\$133.98

	7164228	Screw	\$121.80 ea		
728	11.5mm Trigen IM Nail	11.5MM TRGN 0726957	1 @ \$1,277.50	\$1,277.50	1,405.25
				\$11,886.50	\$13,075.15
				Total Supported Cost	Sum of Per-Item Add-on

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

4. §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, **plus** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at <http://www.cms.gov>, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.

- Documentation found supports that the DRG assigned to the services in dispute is 494, and that the services were provided at TX Orthopedic Hospital. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$14,384.41. This amount multiplied by 108% results in an allowable of \$15,535.16.
- The total cost for implantables from the table above is \$11,886.50. The sum of the per-billed-item add-ons does not exceed the \$2000 allowed by rule; for that reason, total allowable amount for implantables is \$11,886.50 plus \$1,188.65 which equals 13,075.15.

Therefore, the total allowable reimbursement for the services in dispute is \$15,535.16 plus \$13,075.15, which equals \$28,610.31. The respondent issued payment in the amount of \$20,951.16. Based upon the documentation submitted, additional reimbursement in the amount of \$7, 659.15 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

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 \$7,659.15 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October , 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.