



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
GORDON G. McWATT,DO

Respondent Name
TRAVELERS INDEMNITY CO

MFDR Tracking Number
M4-13-1006-01

Carrier's Austin Representative
Box Number 05

MFDR Date Received
DECEMBER 20, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This was a misdirected claim filed to Texas Mutual by mistake. Resubmitted claim to Travelers to correct address and adjuster Joseph Lewis denied as timely filing...Explained to him that our office back then was short staff and did not have the man power to work denials."

Amount in Dispute: \$500.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider alleges entitlement to reimbursement on the basis that they did not have sufficient staff to timely submit the bill to the proper carrier. There is no such exception for late submission of medical bills. Late submissions of medical bills is covered by Texas Labor Code Sect. 408.0272, which states that bills which are timely submitted to the incorrect carrier may be timely resubmitted to the proper carrier only if they are resubmitted to the proper carrier within 95 days of the date the provider was notified of the erroneous submission of the bill. Herein, the Provider was notified by Texas Mutual of the erroneous submission of the bill on 06-19-2012. Allowing five days for mailing pursuant to Rule 102.4, as there is no date stamp evidencing the Provider's date of receipt, the Provider received notice of the erroneous submission on 06-24-2012. Per Sect. 408.0272, the Provider than had until 09-27-2012 to submit the bill to the proper carrier. The Carrier received the billing on 10-15-2012. Again applying the assumptions of Rule 102.4, the Provider submitted the billing on 10-10-12, or 13 days late. Therefore, the Carrier properly denied reimbursement based on the Provider's failure to timely submit their bill for services. Furthermore, the Provider's Request for Medical Dispute Resolution should be dismissed in accordance with Rule 133.307(e)(3)(C), as the Provider has failed to request reconsideration of the Carrier's denial under Rule 133.250."

Response Submitted by: Travelers, c/o William E. Weldon

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 30, 2012	CPT Code 99456-WP Designated Doctor Evaluation	\$500.00	\$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. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
2. Texas Labor Code §408.0272, effective September 1, 2007, provides for exceptions for timely submission of a claim by a health care provider.
3. 28 Texas Administrative Code §133.307, effective June 1, 2012, sets out the procedures for resolving a medical fee dispute.
4. 28 Texas Administrative Code §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - 29-The time limit for filing has expired.

Issues

1. Were the services billed to a workers' compensation carrier timely?
2. Does the disputed bill meet exception for filing timely? Is the requestor entitled to reimbursement?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed Designated Doctor Evaluation based upon reason code "29."

Texas Labor Code §408.027(a) states "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."

Texas Labor Code §408.0272(b)(1) states "Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with: (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title."

The disputed date of service is May 30, 2012. No documentation was submitted to support when the original bill was sent to Texas Mutual Insurance; however, a letter dated June 19, 2012 from Texas Mutual Insurance to the requestor notifying them that they were not the insurance carrier indicates that the bill was received from the requestor on June 13, 2012. The requestor supported that they erroneously filed for reimbursement with a workers' compensation insurance carrier within 95 days per Section 408.027(a).

2. Texas Labor Code §408.0272(c) states "Notwithstanding Subsection (b), a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim."

Texas Mutual Insurance notified the provider that they were the incorrect workers' compensation carrier in a letter dated June 19, 2012. No documentation was submitted to support when the requestor received this letter.

28 Texas Administrative Code §102.4(h), 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."

Because the requestor did not support the date they were notified that Texas Mutual Insurance was not the correct workers compensation carrier, the Division considers the June 19, 2012 letter to be received on Monday, June 25, 2012 in accordance with 28 Texas Administrative Code §102.4(h). In addition, the only evidence of billing is a handwritten note on a letter stating "10-9-12 Rebilled to Travelers with Letter." The Division finds that considering the dates of June 25, 2012 to October 9, 2012, the 95 deadline was past; therefore, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established 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

Medical Fee Dispute Resolution Officer

07/29/2014
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812..