



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TX HEALTH PRESBYTERIAN HOSPITAL DALLAS
PO BOX 910115
DALLAS TX 75391

Respondent Name

Dallas ISD

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-13-2420-01

MFDR Date Received

May 22, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Inpatient stays are to be paid at 108% of the Medicare DRG rate plus the cost of implants. The payment of \$28,273.72 only reflects 57.5% of the DRG rate."

Amount in Dispute: \$15,078.46

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "...the previous reimbursement of \$17,145.71 is correct and no additional allowance is due."

Response Submitted by: Argus Services Corporation, 811 S Central Expwy, Suite 440, Richardson, TX 75080

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 19 – 31, 2012	Inpatient Hospital Surgical Services	\$15,078.46	\$13,776.08

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:

- 97H – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- W1UA – Workers compensation State Fee Schedule Adjustment, “Implantables are reimbursed at the lesser of the manufacturers invoice amount or the net amount plus 10% or \$1,000.00 per billed item add-on, whichever is less, not to exceed \$2,000.00 in add-on.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- WIRA – Workers Compensation State Fee Schedule Adjustment. “Medicare inpatient hospital specific reimbursement amount multiplied by 108%. DWC rule 134.404.”

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.

Contrary to the respondent’s position, the Division notes that the Rule Adoption Order does not specify that pass-through reimbursements are excluded from payment rule, only that the Labor Code does not provide for pass-through reimbursements to cover bad debt or direct medical education. The Division clarified elsewhere in the preamble that “Bad debt and direct medical education are paid outside the base methodology and are a part of the cost report reconciliation process, which the Division has not adopted” (33 Texas Register 419). In each instance the Division is referring to a process, cost report reconciliation that was not adopted and accordingly not mentioned in the text of the rule. The respondent has not supported the argument that pass-through amounts are to be excluded from CMS’s base methodology, or from the calculation of the Medicare facility specific amount.

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	Per item Add-on (cost +10% or \$1,000 whichever is less).
278 or other disputed (b)(2) items	HMRL ASSY XSM	C/M HUMERAL ASSEMBLY 4IN	1 at \$4,973.46	\$4,973.16	\$5,470.48
278 or other disputed (b)(2) items	ULNAR ASSY PL	C/M ULNA ASSEMBY 3 IN	1 at \$4,724.46	\$4,724.46	\$5,196.91
278 or other disputed (b)(2) items	RESTRICTOR	16MM & 25MM PLUG	1 at \$340.00	\$340.00	\$374.00
278 or other disputed (b)(2) items	PLUG CMT	12mm/16mm plugs with inserter	1 at \$90.39	\$99.43	\$99.43
278 or other disputed (b)(2) items	Miscellaneous implantables	No documentation submitted to support	0.00	NONE PROVIDED	\$0.00
				\$10,128.01	\$11,140.81
				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 483, and that the services were provided at TEXAS HEALTH PRESBYTERIAN HOSPITAL. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$28,619.43. This amount multiplied by 108% results in an allowable of \$30,908.98
 - The total cost for implantables from the table above is \$10,128.01. 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 \$10,128.01 plus \$1,012.80, which equals 11,140.81.
5. Therefore, the total allowable reimbursement for the services in dispute is \$30,908.98 plus \$11,140.81, which equals \$42,049.80. The respondent issued payment in the amount of \$28,273.72. Based upon the documentation submitted, additional reimbursement in the amount of 13,776.08 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 \$13,776.08 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	_____ March , 2014 Date
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_____ Signature	_____ Medical Fee Dispute Resolution Manager	_____ March , 2014 Date
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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.