



# 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](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

MMC OF EAST TEXAS

**Respondent Name**

EAST TX EDUCATIONAL INS ASSN

**MFDR Tracking Number**

M4-14-0593-01

**Carrier's Austin Representative**

Box Number: 17

**MFDR Date Received**

OCTOBER 18, 2013

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The employer asked to receive the hospital's bill indicating that they would send it to the workers compensation carrier along with the report of injury. Rather than notifying Claims Administrative of the injury pursuant to 28 Tex. Admin. Code §45.10, and forwarding the hospital's bill as promised, the employer instead submitted the bill to its group health plan Claims Administrative Services... The hospital was not reimbursed by the health insurance on..."

**Amount in Dispute:** \$3,618.25

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Rule 408.027 allows 3 circumstances in which timely filing will not apply. The first is when the provider sends satisfactory proof that the medical bill is filed within 95 days after discovery of filing with an incorrect insurance carrier. Second is when there has been a catastrophic event that interfered with the normal business operations of the provider. Third is when both parties agree to extend the submission period. What has been provided to us is a USPS Tracking order indicating that certified mail was received in Oklahoma City on 1/9/13, but nothing documenting this was in relation [injured workers] bill. We also received a claim status of [injured workers] bill, sent to the provider's clearing house on 11/26/12. We feel the provider has failed to provide any documentation which would qualify under any of the required circumstances. It is our determination that the 95 day timely filing requirement was not met, and maintain our denial, due to timely filing."

**Response Submitted by:** CLAIMS ADMINISTRATIVE SERVICES

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 16, 2012	MRI – Upper Ext Joint w/o contrast	\$3,618.25	\$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**

- 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
- 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers'

compensation medical bills for reimbursement.

3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 29 – The time limit for filing has expired.
  - 719 – Per Rule 133.20, a medical bill shall not be submitted later than the 95<sup>th</sup> day after the date of service.
  - 193 – Original payment decision is being maintained. Upon review, it was determined that the claim was process properly.
  - 351 – No additional reimbursement allowed after review of appeal/reconsideration.

### **Issues**

1. Is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?
3. Did the requestor bill the employer?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied...” Review of the documentation submitted by the requestor no convincing documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that “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.” 28 Texas Administrative Code §102.4(h) states that “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.” Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.
3. The requestor states in their position summary that “The employer asked to received the hospital's bill indicating that they would send it to the workers compensation carrier...” In accordance with 28 Texas Administrative Code §133.20(j) which states, “The health care provider may elect to bill the injured employee's employer if the employer has indicated a willingness to pay the medical bills(s). Such billing is subject to the following: (1) A health care provider who elects to submit medical bills to an employer waives, for the duration of the election period, the rights to: (C) medical dispute resolution as provided by Labor Code §413.031. The requestor states in their position summary that “The employer asked to receive the hospital's bill indicating that they would send it to the workers compensation carrier...” Therefore, the requestor has forfeited the right to medical dispute resolution.

### **Conclusion**

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

\_\_\_\_\_  
Date

May 29, 2014

**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.**