



## **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 and Address**

PRC HEALTH SERVICES  
6660 AIRLINE DRIVE  
HOUSTON TX 77076

#### **Respondent Name**

INDEMNITY INSURANCE CO OF NORTH

#### **Carrier's Austin Representative**

Box Number 15

#### **MFDR Tracking Number**

M4-14-1092-01

#### **MFDR Date Received**

December 16, 2013

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "...our facility recognizes that at one point there was a dispute on file which was resolved on June 12, 2013 through a CCH. We presume that the carrier continues to deny our bills due to a misinterpretation of the CCH findings by the claims adjuster. Unfortunately the carrier has failed to provide us with an EOB to confirm the above, however the original EOBs on file show a denial due to lack of medical necessity which is a Texas Labor Code violation."

**Amount in Dispute:** \$9,687.50

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Pursuant to the attached pre-authorization, the requester submitted the request for chronic pain management based on numerous diagnoses that are not part of the compensable injury. As such, no payment is owed for this treatment that was pre-authorized for conditions unrelated to the compensable injury."

**Response Submitted by:** Smith & Carr, P.C.

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 10, 2012	Chronic Pain Management	\$875.00	Not eligible for review
January 9, 2013 and January 22, 2013	Chronic Pain Management	\$1375.00	Not eligible for review
December 17, 2012, December 18, 2012, January 8, 2013, January 11, 2013, January 14, 2013, January 16, 2013, January 17, 2013, January 18, 2013, January 21, 2013, January 23, 2013	Chronic Pain Management	\$7,437.50	\$5,700.00
TOTAL		\$9,687.50	\$5,700.00

## ***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 a medical fee dispute.
2. 28 Texas Administrative Code §134.204 sets out the Medical Fee Guideline for Workers' Compensation Specific Services.
3. 28 Texas Administrative Code §134.600 sets out the procedures for Preauthorization, Concurrent Review, and Voluntary Certification of Health Care.
4. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
5. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
6. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
7. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
8. The dates of service January 9, 2013 and January 22, 2013 were denied by the respondent with the following reason codes:
  - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.
  - 406 – Workers Compensation claim adjudicated as non-compensable, carrier not liable for claim or service/treatment.
9. The remaining services in dispute were reduced/denied by the respondent with the following reason codes:  
Explanation of benefits
  - 29 – The time limit for filing has expired.
  - 937 – Service(s) are denied based on HB 7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95<sup>th</sup> day after the date of service.
  - QA – The amount adjusted is due to bundling or unbundling of services.
  - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.
  - 407 – These are non-covered services because this is not deemed a medical necessity by the payer.
  - 171 – The charge was disallowed as it was not adequately identified.
  - 16 – Claim/service lacks information which is needed for adjudication.

### **Issues**

1. Did the requestor waive the right to medical fee dispute resolution for date of service December 10, 2012?
2. Did the requestor resolve the extent of injury issues raised for dates of service January 9, 2013 and January 22, 2013?
3. What is the timely filing deadline and did the requestor forfeit the right to reimbursement for the services in dispute?
4. Did the requestor obtain preauthorization for the disputed chronic pain management services?
5. What rules apply to determine the reimbursement for a non-CARF accredited chronic pain management program?
6. Is the requestor entitled to reimbursement?

### **Findings**

1. 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 service in dispute is December 10, 2012. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on December 16, 2013. This date is later than one year after the date of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file date of service, December 10, 2012 with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for date of service December 10, 2012.

The Division finds that the requestor has waived the right to medical fee dispute resolution for date of service December 10, 2012. For that reason, the merit of the issues raised by both parties for this date of service has not been addressed.

2. The insurance carrier denied dates of service January 9, 2013 and January 22, 2013 based on denial reason code "406 – Workers Compensation claim adjudicated as non-compensable, carrier not liable for claim or service/treatment," during the medical bill review process. The dates of service referenced above contain unresolved issues of extent-of-injury for the same service(s) for which there is a medical fee dispute. The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) responses during the medical bill review process.

Dispute resolution sequence: 28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(c) (2) (K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute.

Extent-of-injury dispute process: The Division hereby notifies the requestor that the appropriate process to resolve the issue(s) of extent of injury, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1. As a result, dates of service January 9, 2013 and January 22, 2013 were not considered in this review.

3. 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 95<sup>th</sup> day after the date the services are provided." No 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.

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 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 not forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute. The Medical Fee Dispute Resolution section will review the disputed charges pursuant to 28 Texas Administrative Code §134.204.

4. Per 28 Texas Administrative Code §134.600 "(p) Non-emergency health care requiring preauthorization includes: (10) chronic pain management/interdisciplinary pain rehabilitation."

Per 28 Texas Administrative Code §134.600 "(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care."

The requestor submitted two copies of a preauthorization letter issued by Genex. The following was identified;

Preauthorization letter (reference number [REDACTED]) issued by Genex on November 28, 2012, preauthorized 10 visits of chronic pain management 80, with a start date of November 28, 2012 and an end date of February 27, 2013. Review of the CMS-1500s for dates of service December 17, 2012 and December 18, 2012 reference preauthorization number [REDACTED] in box 23 of the CMS-1500 as the prior authorization number. Therefore, these dates of service provided within the preauthorized timeframe and are subject to review according to 28 Texas Administrative Code §134.204.

Preauthorization letter (reference number [REDACTED]) issued by Genex on January 4, 2013, preauthorized 10 visits of chronic pain management, with a start date of January 4, 2013 and an end date of April 3, 2013. Review of the CMS-1500s for dates of service January 8, 2013 through January 23, 2013 reference preauthorization number [REDACTED] in box 23 (prior authorization number) of the CMS-1500. Therefore, these dates of service were provided within the preauthorized timeframe and are subject to review according to 28 Texas Administrative Code §134.204.

5. Per 28 Texas Administrative Code §134.204 (h)(1)(B) "The following shall be applied to Return To Work Rehabilitation Programs for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a Division Return to Work Rehabilitation Program, a program should meet the specific program standards for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual, which includes active participation in recovery and return to work planning by the injured employee, employer and payor or carrier. (1) Accreditation by the CARF is recommended, but not required. (B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

Per 28 Texas Administrative Code §134.204 (h) (5) (A-B) "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

Review of the submitted documentation finds that the requestor billed CPT code 97799-CP and did not appended modifier –CA to identify that the chronic pain management program is CARF accredited, as a result, reimbursement is calculated per 28 Texas Administrative Code §134.204 (h) for dates of service December 17, 2012 through January 23, 2013. Reimbursement for non-CARF accredited programs is calculated at 80% of the MAR for each date of service.

To determine reimbursement for a chronic pain management program, the division applies the following:

28 Texas Administrative Code §134.204 (h) (1) (B) if the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR.

28 Texas Administrative Code §134.204 (h) (5) (A) (B) "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

Review of the CMS-1500s and the medical documentation finds that the requestor billed for the following;

Date of service December 17, 2012, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service December 18, 2012, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service January 8, 2013, the requestor billed and documented 5.5 hours and is therefore entitled to reimbursement in the amount of \$550.00.

Date of service January 11, 2013, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service January 14, 2013, the requestor billed 6 hours, however submitted documentation to support the billing of 3 hours; as a result reimbursement is recommended for 3 hours in the amount of \$300.00.

Date of service January 16, 2013, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service January 17, 2013, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service January 18, 2013, the requestor billed and documented 6.5 hours and is therefore entitled to reimbursement in the amount of \$650.00.

Date of service January 21, 2013, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

Date of service January 23, 2013, the requestor billed and documented 6 hours and is therefore entitled to reimbursement in the amount of \$600.00.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$5,700.00.

## ***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 \$5,700.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

## **Authorized Signature**

_____	_____	<u>January 31, 2014</u>
Signature	Medical Fee Dispute Resolution Officer	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).