



## **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**

Prevea Health Centers

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-14-2153-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

March 17, 2014

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

**Requestor's Position Summary:** "Please reconsider ... May 9, 2013 service date with Dr. Robinson for payment. We originally billed this service date will a CPT 99215. Texas Mutual's EOB indicated that the information does not support the level of office level billed. We reviewed of our documentation and have changed this service date to an office level 99213.

Please reconsider ... August 8, 2013 service date with Dr. Brock Robinson for payment on office level 99215. This service date was denied as information submitted does not support the level of service. We have reviewed the documentation and the provider spent 42 minutes with the patient. As per 2013 CPT, "typically 40 minutes are spent face-to-face with the patient and/or family, support office level 99215."

**Amount in Dispute:** \$1464.75

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

**Respondent's Position Summary:** "The following is the carrier's statement with respect to this dispute 9/13/12 to 8/8/13.

1. **PREVEA HEALTH CENTERS** provided services to the claimant on the 9/13/12, 10/2/12, and 12/10/12.
2. Rule 133.307(c)(1)(A) states, "...A request for MFDR 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. (B) A request may be filed later than one year after the date(s) of service if: (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability; (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or (iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice. Texas Mutual reviewed its claim file and found (B)(i-iii) do not apply.
3. One year from disputed date 12/10/12 is 12/10/13. The TDI/DWC date stamp lists the received date as 3/17/14 on the requestor's DWC-60 packet, a date greater than one year from 12/10/12. The requestor has waived its right to DWC MDR for dates 9/13/12, 10/2/12, and 12/10/12.

- The requestor billed E/M code 99215 on 5/9/13. Texas Mutual declined to issue payment because the documentation did not meet the requirements of the code.

The requestor submitted the same documentation again but with code 99213. Texas Mutual received this new bill on 9/6/13. However, the bill was past the 95 days prescribed by Rule 133.20 and it was denied...

- The requestor billed E/M code 99215 on 8/8/13. Texas Mutual declined to issue payment because the documentation did not meet the requirements of the code.

No payment is due.”

**Response Submitted by:** Texas Mutual Insurance Company

### SUMMARY OF FINDINGS

| Dates of Service  | Disputed Services  | Amount In Dispute | Amount Due |
|---|--|-------------------|------------|
| September 13, 2012<br>October 2, 2012<br>December 10, 2012<br>May 9, 2013<br>August 8, 2013 | Evaluation/Management, New Patient (99205)<br>Evaluation/Management, Established (99213 x 2)<br>Evaluation/Management, Established (99215)<br>Evaluation/Management, Established (99213)<br>Evaluation/Management, Established (99215) | \$1464.75         | \$224.44   |

### 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 resolving medical fee disputes.
- 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
- 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
- Texas Labor Code §408.027 sets out the rules for timely submission of claims by health care providers.
- Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical bill.
- 28 Texas Administrative Code §134.203 sets out the procedures for billing and reimbursing professional medical bills.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - For dates of service 9/13/12, 10/2/12, and 12/10/12:
    - CAC-29 – The time limit for filing has expired.
    - 731 – Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service for services on or after 9/1/05.
    - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
    - 891 – No additional payment after reconsideration.
    - CAC-18 – Duplicate claim/service.
    - 224 – Duplicate charge.
    - CAC-150 – Payer deems the information submitted does not support this level of service.
    - 890 – Denied per AMA CPT Code description for level of service and/or nature of presenting problems.
  - For CPT Code 99213, date of service 5/9/13:
    - CAC-29 – The time limit for filing has expired.
    - Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service for services on or after 9/1/05.
  - For CPT Code 99215, date of service 8/8/13:
    - CAC-150 – Payer deems the information submitted does not support this level of service.
    - CAC-16 – Claim/service lacks information which is needed for adjudication.
    - 225 – The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
    - 890 – Denied per AMA CPT Code description for level of service and/or nature of presenting problems.

## Issues

1. Under what authority is the request for medical fee dispute resolution considered?
2. Were all dates of service filed timely to Medical Fee Dispute?
3. What is the timely filing deadline applicable to the medical bill for date of service May 9, 2013?
4. Does date of service August 8, 2013 meet the documentation requirements for CPT Code 99215?
5. Is the requestor entitled to reimbursement?

## Findings

1. The requestor is a health care provider that rendered disputed services in the state of Wisconsin to an injured employee with an existing Texas Workers' Compensation claim. The health care provider was dissatisfied with the insurance carrier's final action. The health care provider requested reconsideration from the insurance carrier and was denied payment after reconsideration. The health care provider has requested medical fee dispute resolution under 28 Texas Administrative Code §133.307. Because the requestor has sought the administrative remedy outlined in 28 Texas Administrative Code §133.307 for resolution of the matter of the request for additional payment, the Division concludes that it has jurisdiction to decide the issues in this dispute pursuant to the Texas Workers' Compensation Act and applicable rules.
2. Per 28 Texas Administrative Code §133.307 (c)(1), a request for Medical Fee Dispute Resolution must be filed within one year from date of service, unless it qualifies for an exception under subparagraph (B). Review of the submitted documentation does not support that the disputes for dates of service 9/13/12, 10/2/12, and 12/10/12 qualify for an exception under this rule. The request was received on 3/17/14. Therefore, these dates of service were not timely filed to Medical Fee Dispute. Dates of service 5/9/13 and 8/8/13 were received within one year of the dates of service. Therefore, only dates of service 5/9/13 and 8/8/13 will be reviewed.
3. Texas Labor Code §408.027 (a) and 28 Texas Administrative Code §133.20(b) require 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.

Texas Labor Code §408.0272 (b) defines exceptions to the 95<sup>th</sup> day filing deadline as, "(1)... 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; or (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider." 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.

4. 28 Texas Administrative Code §134.203(b)(1) states, in pertinent part, "for coding, billing reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; ... and other payment policies in effect on the date a service is provided..." Review of the submitted documentation finds that the requestor performed an office visit for the evaluation and management of an established patient.

The American Medical Association (AMA) CPT code description for 99215 is:

Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: **A comprehensive history; A comprehensive examination; Medical decision making of high complexity** [emphasis added]. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Typically, 40 minutes are spent face-to-face with the patient and/or family.

The 1997 Documentation Guidelines for Evaluation & Management Services is the applicable Medicare guideline to determine the documentation requirements for the service in dispute. The Guidelines state:

- Documentation of an encounter dominated by counseling or coordination of care:
  - "In the case where counseling and/or coordination of care dominates (more than 50%) of the physician/patient and/or family encounter (face-to-face time in the office or other or outpatient setting...), **time is considered the key or controlling factor to qualify for a particular level of E/M services**" [emphasis added].

- "If the physician elects to report the level of service based on counseling and/or coordination of care, the total length of time of the encounter (face-to-face or floor time, as appropriate) should be documented and the records should describe the counseling and/or activities to coordinate care."

Review of the submitted documentation finds that the medical provider documented, "The patient interaction time 42 minutes, more than 50% of which was used for counseling and coordination of care." The documentation also indicates that the provider described these services. Therefore, date of service 8/8/13 met the documentation requirements for CPT Code 99215.

5. Review of the submitted documentation finds that the bill submission for date of service 5/9/13 involved changing the billing code. 28 Texas Administrative Code §133.250 (d) states, "A written request for reconsideration shall: (1) reference the original bill and **include the same billing codes**, date(s) of service, and dollar amounts as the original bill" [emphasis added]. Therefore, by changing the billing code, the requestor was submitting a new bill.

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." Review of the submitted information finds no documentation to support that a medical bill for date of service 5/9/13 was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for these services.

Procedure code 99215, service date August 8, 2013, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 2.11 multiplied by the geographic practice cost index (GPCI) for work of 1 is 2.11. The practice expense (PE) RVU of 1.95 multiplied by the PE GPCI of 0.96 is 1.872. The malpractice RVU of 0.14 multiplied by the malpractice GPCI of 0.547 is 0.07658. The sum of 4.05858 is multiplied by the Division conversion factor of \$55.30 for a MAR of \$224.44.

The total allowable reimbursement for the services in dispute is \$224.44. This amount less the amount previously paid by the insurance carrier of \$0.00 leaves an amount due to the requestor of \$224.44. This amount is recommended.

### **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 \$224.44.

### ***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 \$224.44 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

Laurie Garnes  
Medical Fee Dispute Resolution Officer

February 23, 2015  
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.**