



# 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**

Kathleen Summers, DC

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-14-2945-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

May 27, 2014

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We are asking for help to resolve outstanding bill for a Designated Doctor Exam that was performed on 7/23/2013...This was the second exam. The first exam was on 4/25/13 was paid. The first billing occurred on 7/30/13. A reconsideration was done on 02/01/2014. No EOB's have been sent to us.

We have an extenuating circumstance and have tried to explain that to the carrier. We have done the same with other carriers and they have paid the claims, however Texas Mutual...have not. We have the most claims with Texas Mutual.

In January of this year, we had our assistant arrested for felony theft. The amount of damages is around \$16-18,000. We are trying to recoup what was lost because she spent more time trying to hide her theft than doing her job correctly, it seems. After January, we had to go back through what had been done with the DDEs and find out why we had not been paid for some. This is when we did the reconsideration on 02/01/2014. No response on that billing.

We are asking for Dispute Resolution's help in getting paid for the work that was done. We are aware of the time line for filing. ...we do usually average 16 DDEs per month. When we asked our assistant about it and she told us it was being handled, we trusted that she was doing what she had been taught to do. Never expected what happened. Since her arrest in January, we have been working without an assistant until the last two weeks. So it has been slow going to resolve these problems and other ones that were created.

We are trying to get these billings cleared-up as fast as we can."

**Amount in Dispute:** \$350.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual has no records of receipt of a bill from the requestor for the date above."

**Response Submitted by:** Texas Mutual Insurance Company, 6210 E. Hwy. 290, Austin, Texas 78723

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 23, 2013	Designated Doctor's Exam to Determine Maximum Medical Improvement and Impairment Rating	\$350.00	\$0

## **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 medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
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 claims by health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical bill.
6. The submitted documentation did not include explanations of benefits for the billed date of service.

### **Issues**

1. What 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?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) requires 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." The documentation submitted does not 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 that the submitted documentation does not 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 has forfeited the right to reimbursement due to untimely submission of the medical bill for the disputed services.

### **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

Laurie Garnes  
Medical Fee Dispute Resolution Officer

December 17, 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.**